

**REGINA -V- JIMMY MOUALA, JONATHAN ILALA, SAMUEL RIASI,  
JACKSON SIAU AND SILAS BARNABUS**

High Court of Solomon Islands  
(Palmer C.J.)

Criminal Case No. 187 of 2002

Date of Hearing: 29<sup>th</sup> September 2004  
Date of Sentence: 29<sup>th</sup> September 2004

*S. Cooper for Prosecution.*

*Ms. L. Kershaw for the first and second Defendants*

*M. Ipoh for the third Defendant.*

**(Palmer CJ):** These three accused have been charged with arson for setting fire to the Su'u School Administration Office Building. They were then students of the School at the time of commission of offence.

The facts disclose that on the evening of the 1<sup>st</sup> May 2002 these accuseds prepared plastic bottles for use in lighting the fire and some petrol they had stolen from the school shed. Jonathan Ilala ("Jonathan") acted as the watchmen whilst Jimmy Mouala ("Jimmy") and Samuel Riasi ("Samuel") gained entry into the Administration building and sprayed petrol onto the book shelves and books in the Principals Office and the main administration office. They then lit the fire and ran off. The fire however did not catch and so a second attempt was made this time by Jimmy Mouala and two others. This second attempt was successful and the administration office was gutted with fire in the early hours of that morning 2<sup>nd</sup> May 2002. Extensive damage was caused amounting to some \$355,000.00.

At the time of commission of offence Jimmy Mouala was 16 years old, Jonathan 18 and Samuel 17 years.

The offence of arson is a very serious offence carrying maximum sentence of life imprisonment. What these accuseds have done therefore must be viewed in that background. Those who choose to burn a house must expect to go to prison.

I have listened carefully to the mitigation presented on behalf of these three accused. The facts disclose a number of common matters between these accuseds as well as distinguishing features. First, these are all young persons/students of the school at the time of commission of offence. They had no previous convictions and this is their first time to appear in court. They have all entered guilty pleas and indicated remorse for their actions.

It is clear there is some difference in the level of participation or involvement in the planning of the commission of that offence. The driving force obviously was Jimmy, though he was the youngest of the three. Jonathan and Samuel were brought into the act by Jimmy and assisted him in carrying out the offence. To that extent they are regarded

as principals in the commission of the offence though the court can take into account the different levels of involvement.

Section 16 of the Juvenile Offenders Act does provide options which the court can consider in dealing with these accuseds as young persons. A custodial sentence is an option which this court can also consider.

Their age/youth is a strong mitigating factor as to the sentencing options open to this court. This includes the delay factor of some two years in having this case eventually brought before this court. It must be borne in mind though that when this matter was brought before the Central Magistrates Court for committal they all entered not guilty pleas. Had they entered or indicated that they would be entering guilty pleas then their cases would have been dealt with much earlier.

Their guilty pleas at this point of time does indicate remorse and their willingness to face up with their actions. Credit is given for that.

I take into account their personal circumstances, their desire to move on in life and steps taken to change. Jonathan has indicated a desire to take up theological studies, Jimmy as a carpenter and Samuel to join up with Don Bosco. Samuel also has a job with a private company in Honiara. There are indications that they are taking positive steps to change their ways and attitude in life. That should be encouraged.

I note that since commission of the offence they have been expelled from school. That is punishment for their behaviour. However that should also be balanced with the fact that their actions have also caused disturbance to the normal operations of the school for sometime until replacement building and facilities were constructed and obtained.

I take all those mitigating factors into account and give due credit for them. They do not however remove the fact that they have destroyed a building worth some \$355,000.00. Su'u Secondary School is a church school which relies heavily on the goodwill and support of church members and others for its operations. The attitude displayed in destroying school property because of grievances which these accuseds might hold or have is wrong. There are ways of dealing with such grievances without having to break the law. Respect for property must be maintained at all times, more so in a school environment.

An immediate custodial sentence must be expected for such offences. This is important to deter other likely offenders who might be thinking of doing the same thing. A sentence of around 3 years would have been the normal range for this type of offence. I bear in mind though the strong mitigating factors which have been submitted in favour of these accuseds. I have considered whether other options would have been more appropriate but balancing all things this type of sentence warrants a custodial sentence.

For the delay factor the sentence is reduced to two years.

I have considered carefully the question whether I should suspend this sentence wholly or partially. I bear in mind that these are young persons and where possible alternative sentences should be considered, but where a custodial sentence is imposed it should be kept to a minimum.

I accept that the guilty pleas, their youthfulness and the potential for reform and the fact that they were first offenders, warrants some form of suspension. I am not satisfied however that this should be on a total suspension. It must be seen that this type of action or behaviour is unacceptable and cannot be condoned by society and order a partial suspension as follows reflecting their levels of participation bearing in mind that a short, sharp sentence would be appropriate:

- (i) Jimmy Mouala – Suspend 21 months for two years – will serve 3 months.
- (ii) Jonathan Ilala and Samuel Riasi suspend 22 months for two years – will serve 2 months.

The period spent in custody is to be taken into account.

**THE COURT**