

TIMOTHY TAFULAGA -V- REGINAM

High Court of Solomon Islands
(Palmer CJ.)

Criminal Appeal Case Number 397-04

Date of Hearing: 1st September 2004
Date of Judgment: 1st September 2004 (ex tempore)

K. Averre for the Appellant
C. Ryan for the Respondent

Palmer CJ: Following my judgment in *Alick Sisione and Zacchariah Avelea v. Reginam*¹ and *Frank Laubasi v Regina*² I considered this appeal and allowed appeal on the grounds that the sentence of 9 months imposed with 5 months suspended and 4 months to serve, as excessive and quashed sentence substituting a lesser sentence of two months imprisonment.

The reasons being that the circumstances in which this offence was committed were less severe or in a lesser scale. The facts disclosed to court were extremely brief. A raid was conducted at the premises of one David Letuo and implements for distilling kwaso were discovered. This accused was one of the accuseds seen at the scene. He was caught red handed distilling kwaso. He was charged and arraigned on or about 26th August 2004. He entered a guilty plea and was sentenced to 9 months imprisonment.

Having heard learned Counsel Mr. Averre for the Appellant, Mr. Ryan Counsel for the Respondent appropriately declining to make any reply, I am satisfied appeal should be allowed, the order of the Magistrates Court dated 26th August 2004 quashed and substituted with a lesser sentence of two months. A short sharp sentence in my respectful view in this type of offence should be more than effective to drive home the point that this type of activity apart from its criminality, is fruitless and that it does not pay to continue with it. It should be sufficient to send out a strong message to the community that those who engage in this type of activity if caught must expect to go to prison.

ORDERS OF THE COURT:

1. Allow Appeal.
2. Quash orders of the Magistrate Court of 26th August 2004 imposing sentence of 9 months with 5 months suspended and 4 to serve.
3. Substitute sentence of two months.

The Court.

¹ HCSI-CRAC 385-04, 01-SEP-04

² HCSI-CRAC 394-04, 01-SEP-04