

GEORGE KIKO -v- REGINA

HIGH COURT OF SOLOMON ISLANDS
(KABUI, J).

Criminal Case No. 0025 of 2005

Date of Hearing: 5th and 9th, September, 2005.
Date of Judgment/Sentence: 13th September 2005.

P. Barrister for the Crown
K. Anderson (Mrs) for the Accused.

JUDGMENT/SENTENCE

Kabui, J. The accused is George Kiko. He was charged with unlawfully causing the death of Kevin Siosi on 28th October 2000 at Mahu village, near Kakabona. He pleaded guilty to manslaughter, that is, he did not intend to murder Kevin Siosi on the above date. I entered a guilty plea on his own plea and convicted him accordingly.

The Facts

Kiko is an adult but was about twenty years of age in 2000. He was a member of a group of men who had consumed alcohol. The deceased was also a member of villagers who were having a barbecue meal at Mahu village. The men had also consumed alcohol. Kiko and his group walked by and sat some distance away from the deceased's house. Some men from Kiko's group had then gone across to where some women were and the deceased told them to leave and they did so and returned to where they had been sitting. Kiko's group then returned to where the deceased had been and Kiko called the deceased's name three times. There being no response, Kiko's group left. Subsequently, Kiko's group appeared and challenged the deceased's group for a fight. Kiko's group started throwing bottles and a fight broke out between the two groups of men near the barbecue place. The deceased took part in the fight but not with Kiko at any time. Someone from the deceased's group used a ceremonial stick to strike the head of a member of Kiko's group. It broke in two. Kiko picked it up and hurled it at the deceased, some distance of between ten to fifteen metres away. It struck the deceased in the left side of the deceased and killed him. It has a length of approximately fifty to sixty centimeter with a pointed end. The wound caused by the stick was about 0.5 centimetres wide and twelve centimetres long. The stick entered the chest between the fifth and sixth ribs and went in about three centimetres deep into the chest damaging the left lung,

the diaphragm, part of the stomach, blood vessels and connecting tissues. Internal massive hemorrhage was the cause of death.

Sentence

Kabui, J: Having stated the facts, it is now my duty to sentence you. Your record with the Police is not clean. You have twelve previous convictions since 1990 though you dispute two. None of them involves the use of violence against anyone. I can disregard them straight away as being irrelevant to sentencing for manslaughter. There was a fight between your group and the deceased's group. Members of your group were the aggressors in that your group started the fight. Although you said nothing when you hurled the stick your conduct says it all. I think you did it in retaliation for the attack on one of you after the stick broke in two. It was not your weapon. You aimed it at the deceased in the direction of the deceased's group and it found its mark on the left side of the deceased. You appeared to be the last person to escape. You could have escaped with the other members of your group and no stick could have been thrown at anyone. You were not hurt by anyone. You had no reason to retaliate because no one had hurt you. You decided to hurl the stick at the deceased not caring whether it struck the deceased or not. You were totally indifferent to the consequence of your action. You were not playing game. The penalty for murder is life imprisonment. It is a serious offence. I have taken into account your guilty plea, remorse, youth, no previous conviction for violence and payment of compensation to the relatives of the deceased. The offence was not pre-meditated but rather impulsive on your part but misguided at that. Human life however had been lost. It cannot be replaced by any amount of mitigation. However, mitigation appeals for mercy and that is the role it plays in the criminal justice system. In custom, the payment of compensation is the atonement for death caused by killing. It now serves as mitigation only under the criminal justice system. I consider that the appropriate sentence for your case is four years imprisonment, commencing from the first day you went into custody. That is, the periods of time you served in custody will be deducted from the total length of your sentence to be served in prison. I order accordingly.

F.O. Kabui
Puisne Judge