

IN THE HIGH COURT OF SOLOMON ISLANDS
Criminal Jurisdiction
(Bird J)

Criminal Civil Case No. 227 of 2024

REX

-v-

JIMMY TEMA

Date of Hearing: 18th August 2025
Date of Decision: 3rd October 2025

Mr Samuel Koeto Tovosia for the crown
Mr Ben Alasia for the defendant

SENTENCE

Bird PJ:

1. Mr Jimmy Tema was convicted of one count of murder contrary to section 200 of the Penal Code (Cap 26) on the 11th July 2025. He now appears before me for sentence. The incident for which you were charged was such an unfortunate one. As a consequence of the incident, a young man's life was lost within a matter of hours. A charge of murder is very serious because a life has been lost. For that reason, the law imposes a mandatory sentence of life imprisonment on a conviction for murder.
2. In 2017, the Court of Appeal in the case of Ludawane -v- Regina (2017) SBCA-CRAC 37 of 2017, further made it mandatory for a sentencing judge to place a minimum term of sentence to be served by an accused person before he/she could be considered to be eligible for parole.
3. As per the legal position stipulated in the Ludawane case, there was an amendment to the Correctional Services (Parole) (Amendment) Regulation 2020 to accommodate that process. The amendment provides inter alia that a convicted prisoner who is serving a life sentence may only apply to the Board for parole if the prisoner has served a minimum term of imprisonment set by the court on sentencing.
4. After having set out the laws pertaining to sentence, it is noted that in the Ludawane case, the Court of Appeal cited with approval the sentencing regime enunciated in the case of R -v- Sullivan (2005) 1 Cr. App. In the Sullivan case, three starting points were

set out. The starting points depend on the gravity of seriousness in each offending. Having cited the Sullivan case, the Court of Appeal in the Ludawane case provided much guidance to our criminal jurisdiction on murder cases and thereby citing three starting points on the minimum term.

5. The starting points as set out by the Court of Appeal are the following:
 - i) The normal starting point is 12 years.
 - ii) The mid starting point is 15/16 years.
 - iii) The most serious cases could attract a minimum of 30 years or life imprisonment.
6. The normal starting point of 12 years is often attached to the killing of an adult victim or arising from a quarrel or loss of temper between two people known to each other. The mid starting point include cases where the offender's culpability was exceptionally high or the victim was in a particularly vulnerable position in which multiple and extensive injuries are inflicted. The third starting point relates to the most serious of cases. They include cases involving a substantial number of murders or cases where several factors are identified as attracting the higher starting point.

Discussion

7. Having stated the law in relation to the courts duty as stipulated above, I must take into account the particular facts and circumstances in this case and do a balancing exercise upon the aggravating and mitigating features herein.
8. In this case, it is noted that there are a number of aggravating as well as mitigating features. From the facts of this case, there is persistency of attack on the deceased by the defendant. The deceased was hit and kicked by the defendant on his chest and abdomen several times. The deceased was intoxicated. That circumstance has placed him in a vulnerable position.
9. The mitigating features included the defendant's age and personal circumstances. He was 25 years old at the time of offending. He is now 27 years old. He is single and unemployed. He has no prior conviction. He was a person of good repute until the offending. He co-operated with the police during investigation. There was a reconciliation ceremony done between the deceased's and defendant's family members on the 21st November 2023 at New Kalofa Village. The ceremony was attended by family members, surrounding communities, church representatives and the police. The defendant's family members gifted shell money to the deceased's family members.
10. From the stated aggravating features as well as the mitigating factors and considering the guidelines stipulated in the Ludawane case, I am of the view that the appropriate starting point in this case is one of 12 years. The defendant and the deceased are known to each other. They are all adults. They had a quarrel and an altercation ensued. As per the autopsy report and PW7's evidence, the hits and kicks could have

caused internal bleeding and could have caused his death. It is also noted that no weapon was used.

11. From the starting point of 12 years and considering the aggravating feature mentioned above, I would increase sentence by 12 months. I have noted and taken into account the mitigating features as well. The defendant was a young adult at the time of offending. He was a person of good repute until that fateful day. From the facts of the case and the extent of the evidence adduced during trial, it would seem possible that the defendant might have had an intention just to cause grievous bodily harm rather than death. It would also seem highly likely that there was lack of pre-medication (see paragraph 21 N.17 (a) and (b) on page 10 of the Ludawane case). So from these mitigating features, I will reduce the sentence by 3 years. The minimum term that I will impose against the defendant is one of 10 years.

Orders of the court:

1. Mr Jimmy Tema, I hereby sentence you to life imprisonment for the offence of murder contrary to section 200 of the Penal Code (Cap 26).
2. I order that you are to serve a minimum term of 10 years before you are entitled to be released on parole.
3. I further order that the 10 years minimum term is to commence on the date of your remand.



Justice Maelyn Bird

Puisne Judge