

**IN THE CENTRAL MAGISTRATE'S COURT)
OF SOLOMON ISLANDS)**

(Criminal Jurisdiction)

Criminal Case No. 953 of 2016

**REGINA
-v-
PHILIP LEE**

Date of Hearing: August 3, 2017

Date of Sentence: August 7, 2017

C. Ruele for the defence

T. Mosese for the prosecution

SENTENCE

1. The accused pleaded guilty to one count of armed robbery contrary to section 293(1)(a) of the Penal Code. He was 21 years of age, a first time offender and a carpentry student at Ngalikekero Vocational School Training Centre in Malaita when he committed the offence.
2. The brief facts of the case is that on the 11th of February 2017 at about 8:00pm, the accused, Philip Lee and another co-accused David Toli were at the King George bus stop area. It was around that time the victim, Walter Lapo, and his wife were waiting for bus at that bus stop to return to their home at Lengakiki. When they were still waiting for bus, David Toli, approached them and asked Walter for his mobile phone and at the same time he struck Walter with an iron rod and landed on his buttock. When the accused saw David attacked Walter, he moved towards Walter with a bush knife and attempted to strike him. Instantly, Walter grabbed his wife and they escaped to the other side of the road towards a spot known as 'Uncle Alick.'
3. Immediately Walter called police and as a result, police arrived at the scene and arrested the accused whilst David Toli had already escaped.

4. During the hearing of the sentencing submission, he explained that he did not mean to rob the couples but he only meant to scare them with the knife so that they would escape or move out from David Toli who was drunk and was trying to rob them at the bus stop area. According to him, that was the main reason he involved in the offending.
5. Armed robbery is a serious offence and an abhorrent crime. Those who committed this offence normally sent to prison. The communities and our societies need to be safe and secure from robbers and therefore, a custodial sentence is usually the sentencing option for the court for such offenders.
6. The accused at the time of the offending is sober and a carpentry student. He came over to Honiara to do his practical but somehow involved in the offending. Therefore, he as a student should know better that what he did is not right or unlawful in other words. It would affect his training and risk him to go to jail. I failed to comprehend why he overlooked these simple common sense thoughts and decided to do the opposite.
7. Bus stop areas and innocent people or public waiting at such areas should be respected. When we speak of public we refer to all categories of people including the vulnerable or helpless ones. Making unnecessary disturbances to intimidate the public or for carrying out stealing or robbery activities at such public places should not be allowed or tolerated.
8. What concerns the court is the accused attempted to strike one of the innocent victims with the bush knife when they were waiting for bus to return to their residence at Lengakiki. They were significantly disturbed and terrified that night and had to escape for fear for their safety to the other side of the road. This is an outrageous and stupid behavior. It is needless to be practiced here in Honiara or even elsewhere in the country. The fact that even innocent people were easily targeted with weapons for the sake of robbery or related unlawful activities at public bus stop areas speaks volume that this particular offending is on the rise. Public places here in Honiara will be safe if this type of behavior is weeded out. Therefore, the communities at large and the court cannot tolerate such criminal behavior and those who involve in such illegal activities must be punished with deterrent sentence. Such punishment will inform likeminded offenders that they will go to prison if they involve in such unlawful activities.

9. I have considered his explanations that he wanted to scare the victims to escape from Toli when he attempted to strike them with the knife. That was all what he intended to do. When his explanations are considered objectively, unfortunately, I tend not to believe those assertions. Firstly, if that was his intention, then it is expected for him to advise or instruct them in a non-threatening manner to move out of Toli rather than to scare them with the knife. He had the opportunity to do but why he didn't do that remains suspicious. Secondly, he was armed with a large bush knife and silently moved towards the couples. It was when he tried to strike one of them that they escaped. This behavior resembles a robber and is contrary to one who tried to assist the victims to escape the danger forthcoming from Toli. Why he was armed and ventured at the bus stop area being a public place add more suspicion to his behavior as only thieves and robbers would arm with bush knives and roamed around that place like the way he did especially during the night.
10. I accept as agreed upon by the prosecution and defence that the accused caused no harm to the couples except for the threatening act earlier on referred to. It was David Toli who the main perpetrator here. Also, he did not rob any of their properties.
11. I have considered the number of cases referred to by the prosecution and the defense. I considered them as guidelines only. Those cases in my view exemplified very serious forms of robbery and more importantly involved the victims suffered loss of their properties. They were factually different to the present case.
12. In comparison, the facts of this case is less serious to those referred in the cases on the following reasons: first, the accused did not plan to commit the offence. Second, he was merely attempting to strike one of the victims with the knife and did not continue with any further advances towards them. Third, his action was not accompanied by any threatening words to show his intention that he wanted to rob the victims. Fourth, he did not rob any of their properties except for the threatening act earlier on referred to.
13. Hence, the facts of this case in my view places the accused culpability at the bottom end of the categories of the armed robbery offence. Therefore,

the sentence that the court will impose on him must fairly reflect his level of offending and one that the court should not make a blanket approach and artificially impose a sentence that is excessive or one that strives to make him an example for future offenders.

14. Despite the offending took place at night and in the company of another, it is my view that a sentence of **1 year imprisonment** fits well his offending. Hence, that is the sentence I impose on the accused herein.
15. Times spent in custody is to be taken into account.
16. 14 days right of appeal applies.



Augustine Aulanga Principal Magistrate

Criminal Jurisdiction

Address for service of this document:

Iete Tebakota
Police Prosecutions Office
Central Police Station
Honiara

**SENTENCING ORDERS OF THE COURT
(Section 27 of the Penal Code)**

REGINA

V

SAMUEL TEPOE

Date of the Order: August 7th, 2017

Before: Principal Magistrate Augustine Aulanga

FOLLOWING the conviction of the accused, Samuel Tepoe, on his own guilty plea to one count of malicious damage contrary to section 326 (1) of the Penal Code, **I HEREBY MAKE THE FOLLOWING SENTENCING ORDERS:**

1. The accused, Samuel Tepoe, is hereby sentenced to six months imprisonment backdated to the time spent in custody.
2. The sentence referred to in Order 1 above will be stayed if he pays \$4508.44 within 14 days from today to the Royal Solomon Islands Police Force as compensation for the damage he caused to the window screen of the Police vehicle registered G3798. If he fails to pay, the sentence referred to in Order 1 above will remain unaltered.

3. Consequent to Order 2 above, that payment will be presented to the Central Magistrates Court in Honiara for further facilitation to the Royal Solomon Islands Police Force.

Perfected, signed and sealed this ^{7th}..... day of August 2017

