

## REGINA v CLEMENT TAUTO & JERRY MEIYOKO

**Case Number** : Criminal Case Nos. 629, 630 & 631 of 2018  
**Date sentence delivered at Lata** :  
**Court** : Eastern District Magistrate's Court – Lata  
**Coram** : Deputy Chief Magistrate Ricky Iomea  
**Counsel Name(s)** : John Wesley Zoze (ODPP) for the Prosecution  
: Benham Ifuto'o (PSO) for accused Clement Tauto  
: Lilly Ramo for accused Jerry Meiyoko

### SENTENCE

#### Background

The two defendants in this matter are Clement Tauto and Jerry Meiyoko. Clement Tauto was found guilty after trial on the charge of arson contrary to section 319 (b) of the Penal Code. Jerry Meiyoko was convicted after trial on one count of simple larceny contrary to section 261 (1) of the Penal Code and one count of wilful damage, contrary to section 326 (1) of the Penal Code.

The convictions were entered on the 10<sup>th</sup> day of August 2020 where the following orders were made;

- a) Find both accused guilty as charged,
- b) Sentencing & mitigation submissions to be filed at the CMC Registry by 4:30 pm on 17<sup>th</sup> August 2020,
- c) Case adjourned for oral submissions by Counsel on 18<sup>th</sup> August 2020,
- d) Both accused are excused from appearing at CMC on 18<sup>th</sup> August 2020 and their bails are extended.
- e) Date for sentencing to be decided on 18<sup>th</sup> August 2020. Parties will be informed of the date for sentencing. The sentence will be delivered in Lata.

The matter was mentioned in the Central Magistrates' Court in Honiara on a number of occasions to allow the Parties (Prosecution and Defence) to file written sentencing submissions. On the 15<sup>th</sup> of October 2020, the Prosecution and Counsel for Clement Tauto filed their respective submissions on sentence. The matter had to be further adjourned pending filing of sentencing submission by Counsel for Jerry Meiyoko. Eventually, this was filed on the 16<sup>th</sup> day of November 2020.

Thereafter, the case fell from the Court's radar and because of other court commitments and the Court was on annual leave since the beginning of December 2020 to late January 2021. Thereafter, the matter was then overlooked for some time.

There is clearly, a delay in dealing with this matter by way of sentencing after convictions were entered. This means that both the Accused persons had to wait for some time before sentence

is pronounced. The delay is no fault on their part but by their Lawyers and the Court. Therefore, any sentence that will be imposed must take into account the said delay.

#### The facts of the cases for the two defendants

The basis of Clement Tauto's conviction by the Court is that he had actively participated in the burning of the four bulldozers and the two excavators whether as an aider and abettor or as principal. The burnings occurred between 27<sup>th</sup> May 2018 and 28<sup>th</sup> May 2018 at Nadirke bush, Santa Cruz, Temotu Province. The machines were properties of Xiang Lin Company. Those are the facts that constitute the charge of arson against Clement Tauto.

In relation to the accused Jerry Meiyoko, the facts found at trial and which formed the basis for the conviction on the simple larceny charge is that, on 27<sup>th</sup> May 2018 at Nadirke bush, Santa Cruz, Temotu Province, he stole a bundle of excavator keys and a spanner from the excavators and put them in his bag and left with them. The evidence also shows that he stole a one gallon container of diesel from a bulldozer and hid it in the bush. These were the properties of Xiang Lin Company. These are the facts constituting the offence of Simple larceny.

The Court also found that the accused Jerry Meiyoko had also damaged the meter box of one of the excavators on 27<sup>th</sup> May 2018 at Nadirke Bush, Santa Cruz, Temotu Province. These are the facts of the wilful and unlawful damage charge.

#### Aggravating factors

##### *Clement Tauto*

The impact of Mr. Tauto's offending on the Xiang Lin Company is that the Company had lost four bulldozers and two excavators. This was a huge loss to the Company, as these machines, I believe were priced in the millions.

Not only that but the offending had also disrupted and disturbed the operations of the Company at that time because of the destructions of the machines. The Company, as can be safely assumed that to continue on with its logging operations and on the same pace at which it was at before the incident, it had to hire or purchase new machines to replace the ones destroyed. These were expenses that the Company was forced into and had to meet as a result of the offending by the accused Clement Tauto.

##### *Jerry Meiyoko*

The offending by the accused Jerry Meiyoko also impacted on the Company. The value of the keys, spanner and the container of diesel, are not clear, the total value may not be very substantial however, this was a loss to the Company.

#### Sentence remarks

Whilst there might be disagreements with how the Company operated its logging business at Santa Cruz, there are peaceful ways of solving any disagreements. If any disgruntled land owner or resident in the areas where the Company was conducting its logging operations felt that the Company had ignored their pleas then they should ask relevant authorities to intervene and stop the Company from engaging in logging related activities that are destructive and not environmentally friendly. Ignoring such a step and taking the law into one's own hands will lead to serious consequences such as court imposed punishments.

It is a wise thing to do, that before one engages in any unlawful plan to commit any criminal offence, one should take a few moments to reflect on the likely consequences of his or her involvement in such criminal act and abstain.

It is also a wise thing to do, to control one's anger and emotions. Because failure to do so will put one in situations where one do not desire, such as facing the court and potential punishment.

In this case both the accused had either failed to control their emotions and anger or were simply acting recklessly when they committed the offences.

#### Mitigating factors

The defendant Clement Tauto has no criminal history. He is a first time offender.

There has been a delay since the commission of the offence. The reason for the delay is unknown however, as the Court indicated earlier, Court will allow for the delay in finalising this matter after convictions were entered, in the final sentence that will be imposed.

I am satisfied that Mr. Tauto had not committed any further offences whilst on bail therefore, he is a good candidate for rehabilitation. He is 37 years old and still single at the time his sentencing submission was filed. He has a long future ahead of him and I do not think that he will re-offend any time soon in the future. I believe he had learnt from the time he had spent on remand before he was released on bail.

The defendant Jerry Meiyoko was about 29 years old in November last year and is single. He is a good candidate for rehabilitation as well. He had spent about six months on remand before he was granted bail. I believe he had learned a lesson from the period he had spent on remand.

He is a first time offender. He was a law abiding citizen until he committed these offences.

#### Sentence orders

Having considered the facts, the aggravating factors, mitigating factors, the time he had spent on remand, delay, the need for deterrence, retribution, rehabilitation and punishment, I am of the view that immediate custodial sentences are warranted in the circumstances of this case. The following sentences are, in my view appropriate;

#### Clement Tauto

The Arson charge against Clement Tauto, he is sentenced to 2 years imprisonment. The sentence will commence immediately.

#### Jerry Meiyoko

The charge of wilful damage against Meiyoko, he is sentenced to six months imprisonment.

The Simple larceny charge against Jerry Meiyoko, he is sentenced to 3 months imprisonment. The sentences for the two charges will run concurrently. The total effective sentence to be served in six months imprisonment. The sentence to commence immediately.

  
The Court  
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Ricky Iomea - Deputy Chief Magistrate.