

IN THE CENTRAL MAGISTRATES COURT OF SOLOMON ISLANDS  
(Criminal Jurisdiction)

CRIMINAL CASE NO. 290 of 2018

BETWEEN:

**REGINA**

**Complainant**

AND:

**Wilson Innie Hiro**

*Before: Emma Garo Chief Magistrate*

*Police Constable Abel Maelanga for the Police Prosecution*

*Mr. Daniel Kwalai for the defendant*

*Date of hearing: 13<sup>th</sup> June 2018*

*Date of Sentence: 14<sup>th</sup> June 2018*

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**Sentence**

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1. You pleaded guilty to 1 count of simple larceny contrary to section 261(1) of the Penal Code Cap 26. The maximum penalty for this offence is a term of imprisonment of five years.<sup>1</sup>

2. The agreed facts are:

*"On the 9<sup>th</sup> of March 2018 at about 2:30pm you took a taxi in front of the Rove Market to Point Cruz. At point Cruz in front of the BSP Bank you ordered the taxi driver, who*

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<sup>1</sup> Section 261(1) of the Penal Code cap 26.

is the complainant in this matter to stop and you directed him to go inside the bank to collect money from your wife, while you wait in the vehicle. You gave an ATM card to the complainant. The complainant went to the front of bank and waited for your wife to meet him but she didn't turn up.

The complainant was still waiting for your wife to meet him, when you went out of the vehicle and followed him and you pretended to give him \$40.00 in two \$20.00 denominations. The complainant then realised the two \$20.00 denominations belong to him. The complainant told you to wait while he checked his monies in his vehicle. Whilst the complainant was checking his monies, you took off. The complainant realised that you had gone off with his days taking. The total sum was \$340.00. The complainant chased after you but could not reach you. The Complainant went as far as the Hot Bread Shop but did not see you.

On the same day you were later arrested and taken to the Central Police Station. \$300.00 was found on your person and returned to the complainant."<sup>2</sup>

#### **GUILTY PLEA**

3. I give you credit for the guilty plea that you have entered at the first opportunity. You have saved the court's time and resources from having to conduct a trial.
4. Your guilty plea also shows remorse for your offending. You have apologised. This shows you are willing to take responsibility for your action.

#### **PRIOR CONVICTION**

5. You have a prior conviction for simple larceny in 2004 when you were sentenced by this court to four months imprisonment. It has been 14 years since you first and last offended. I have not been told what you stole in 2004, but 14 years since you last offended, shows a genuine attempt on your part to re-order your life. I consider the 14 years of clean record between your last offending and your current offending in your favour to consider your prior conviction as stale.

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<sup>2</sup> Refer to the brief facts filed with the Court

**NOT BENEFITING FROM YOUR OFFENDING.**

6. Mr. Kwalai has submitted that you have not in any way benefited from your offending because the sum of \$300.00 was recovered. This aspect of the submission by Mr. Kwalai overlooks the fact you did not pay for the trip from Rove Market to outside of the BSP Bank at the Point Cruz. The complainant had to chase after you using his vehicle. In order for the vehicle to move, it needs fuel. As such fuel that could have been used to transport another passenger who will pay for his services was instead used to chase after you to recover his hard earned days taking. So the complainant again lost something because of your actions.
7. Further, and more importantly, I dismiss Mr. Kwalai's submission on this point as it would appear that the only reason why you did not benefit from the crime was due to the fact that you were caught before you spent the money. It appears clear that it was your intention to permanently deprive the taxi driver of his hard earned money. Quick action on the part of the police saved his money, not a change of heart on your part.

**FAMILY**

8. Mr. Kwalai has submitted that you are a 34 years old with a young family to support. At 34 years old, my view is that you are mature enough to know better. There is no evidence before me that you are solely responsible for supporting your family financially. There is no evidence before me about what your wife does to help you support your family. To simply suggest from the bar table that your family need your support without evidence to support this is not tenable and cannot be accepted. Even if there is evidence to show that your family will suffer hardship, you should have first thought about your wife and children before you embark into committing the offence. I remind you that the complainant who is the taxi driver in this case also has a family to support with his day's takings.

**TIME SPENT IN CUSTODY**

9. You were remanded in custody since the 12<sup>th</sup> March 2018. Mr. Kwalai has submitted that this would have been 4 months being spent in pre-trial detention. This is also agreed to by Police Constable Abel Maelanga. This is not correct. From 12<sup>th</sup> March 2018 to today 14<sup>th</sup> June 2018, is 2 months and 24 days. Time spent in custody is usually taken into account when sentencing an offender. On the

issue of whether the time you spent in custody is sufficient penalty, I disagree and will explain why in the later part of this judgment on sentence.

#### **AGGRAVATING FEATURES**

10. This is not the first case of a taxi driver being the victim of such actions. Those who are in the Taxi Service Business have a business to run. They provide a service to the public. They pay tax to the Government. They also spend money to repair their vehicles given the road conditions in the country. They have to pay for fuel to operate their daily business. They have a lot of other fees to pay in order to operate their daily business. They must be protected from people like you who think they can live off another person's hard work and sweat.

#### **MODUS OPERANDI**

11. The manner in which you committed the offence shows that you knew what you were doing and you planned it well. On the agreed facts at the time you boarded the taxi from Rove Market it was clear you did not intend to pay the complainant any money. The ATM card you gave him to go and wait outside the bank in my view was to gain his trust that you will not leave the cab without paying and that you will not steal him. This is very serious.
12. You deliberately caused suffering and distress to the complainant with total disregards for his rights. He was deprived of his takings and forced to take pursuit of you taking more of his worthy time and fuel.

#### **COMMITTED THE OFFENCE WHILST ON BAIL FOR ANOTHER OFFENCE**

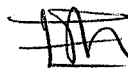
13. You committed this offence whilst you were on bail for other offences you have been alleged to have committed in Criminal Case No. 719 of 2017. That is you have been charged for 10 counts of False Pretences. You were released on bail by this court on the 15<sup>th</sup> day of June 2017. One of the conditions upon which this court released you on bail is that you are not to re-offend whilst on bail and to report to the Kukum Police Station on Mondays and Fridays. You breached these two conditions when you offended on the 9<sup>th</sup> March 2017. Firstly you offended whilst on bail, and the 9<sup>th</sup> March 2018 falls on a Friday. This is the day you are required to report at the Kukum Police Station, instead you chose to go and commit the offence.

14. This Court placed its trust on you to comply in full with the bail conditions. This court on the 15<sup>th</sup> June 2017 gave you your liberty by releasing you on bail with reasonable bail conditions. You made a clear decision to breach those bail conditions. It shows a clear disregard for the court and the orders of the court couched into the bail conditions. This is serious. Bail conditions imposed by the Court are imposed to be obeyed. Not to be ignored. You do not choose when to follow them and when not to follow them. So your commission of this offence whilst on bail is very serious.

15. In the whole of the circumstances of this case, it is my considered view that a custodial sentence that calls for both personal deterrence and general deterrence must be imposed. Those who think they can steal from Taxi drivers must expect to be sent to jail if caught. Those who commit offences whilst on bail must expect to be sent to jail.

16. I sentence you to 6 Months imprisonment. Time spent in custody is to be taken into account. I further order that the \$1000.00 cash bail paid to the court on the 15<sup>th</sup> June 2017 in Criminal Case No. 719 is forfeited to the State. I further order that bail granted to you Criminal Case Number 719 of 2017 be revoked.

Dated this 14<sup>th</sup> day of June 2018



Emma Garo

Chief Magistrate

