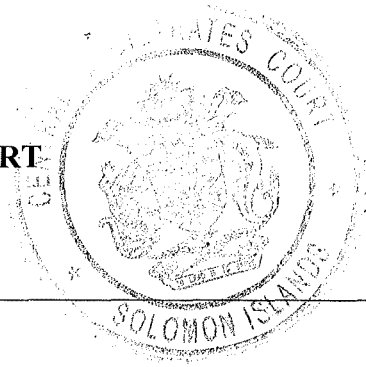


**IN THE SOLOMON ISLANDS MAGISTRATES' COURT
AT HONIARA
Criminal Case No. 714 of 2016**



**REGINA
v.
Stephen JUDE OTO**

Coram: Principal Magistrate Ms. Fatimah Taeburi
Crown: Mr. Ronald Bei Talasasa.
Ms. Freliz Fakarii
Ms. Dalcy Belapitu
Ms. Patricia Tabepuda

Defence: Mr. Amos Ngaingeri

Date of Hearing: 11th May 2018
Date of Ruling: 16th May 2018

SENTENCE

Introduction

1. Mr. Stephen Jude Oto pleaded guilty to 11 counts of official corruption contrary to section 91(a) of the Penal Code.
2. I enter convictions against him.
3. He initially pleaded not guilty to all 11 counts. A trial commenced. The prosecution called two witnesses and tendered 67 exhibits.
4. Mr. Oto then instructed his lawyer that he wished to be re-arraigned. He was re-arraigned on the 10th of May 2018 and he pleaded guilty to all charges against him.

Agreed facts

5. The agreed facts in this case are as follows;

6. Mr. Oto was the Financial Controller of the Ministry of Police, National Security and Correctional Services.
7. The duration of time during which Mr. Oto holds the position of financial controller with the Ministry of Police is not stated in the agreed facts.
8. Nevertheless, it is clear that all 11 counts of official corruption were committed when Mr. Oto was the financial controller of the Ministry.
9. In 2013, he registered a private business with the Company Haus in the name of Jahman Enterprises.
10. He is the sole registered owner of this business.
11. He never disclosed his business interests.
12. In 2015 and 2016, his company Jahman Enterprise was successfully awarded certain work by the Ministry of Police.
13. As the Financial Controller, he was directly involved in the requisition process within the Ministry of Police. Before a Purchase Requisition is submitted to the Permanent Secretary of the Ministry of Police for endorsement, Mr. Oto as the supervisor certifies the availability of funds in a given account to meet the request for purchase of goods and services.
14. He was also involved in the raising of payments within the Ministry of Police. He certified Payment Vouchers to verify to the Ministry of Finance that goods or services have been received by the Ministry of Police and that payments are to be made to the supplier, which in this case was his own company, Jahman Enterprise.
15. With respect to count 1, Mr. Oto certified purchase requisition and payment voucher in the amount of \$64,285.00 which was paid by the Ministry of Police to his private company, Jahman Enterprise.
16. In count 2, he certified purchase requisition and payment voucher in the amount of \$94,000.00 which was paid by the Ministry to his company Jahman Enterprises.
17. In count 3, he certified purchase requisition and payment voucher in the amount of \$84,548.75 which was paid by the Ministry to his company.
18. In count 4, he certified purchase requisition which resulted in the payment of \$84,548.75 by the Ministry to his company.

19. In count 5, an amount of \$9,000.00 was paid by the Ministry to Jahman Enterprise for the purpose of transporting Mr. Oto and his family from Auki to Atori.
20. In count 6, Mr. Oto certified both purchase requisition and payment voucher in the amount of \$95,800.00 which was paid by the Ministry to Jahman Enterprises.
21. In count 7, he certified and signed purchase requisition and payment voucher which resulted in the payment of \$94,987.00 by the Ministry to his private company.
22. In count 8, he signed payment voucher in the amount of \$94,000.00 and the monies were paid by the Ministry to his company.
23. In count 9, he certified purchase requisition and payment voucher in the amount of \$94,000.00 which was paid by the Ministry to his company.
24. In count 10, he certified purchase requisition for payment of \$5,000.00 for purposes of transporting an officer of the Ministry of Police from Auki to East Malaita. The monies were paid by the Ministry to Jahman Enterprise.
25. In count 11, Mr. Oto certified both purchase requisition and payment voucher in the amount of \$94,987.00 and the monies were paid by the Ministry to Jahman Enterprise.

Aggravating factors

26. The aggravating factors in this case are as follows;
27. Firstly, there is breach of trust. Mr. Oto holds a very high position in the Ministry of Police. As the financial controller, he is the care taker of the Ministry's finances, budget and accounting.
28. Clearly his official position carries high responsibilities and obligations. With such responsibilities come high expectations, public trust and confidence.
29. The scenario is even more serious given that he is a public officer within the Ministry of Police. This is a government department that is supposed to support law enforcement agencies to maintain, preserve and enforce law and order in this country.
30. By his actions, he breached the trust and confidence that the public has placed on him as the financial controller. He has also brought the Ministry of Police in this country to disrepute.

31. Secondly, he committed these corrupt acts not once or twice but eleven times. He only stopped when his dishonest practices were detected by authorities which resulted in his suspension.
32. Thirdly, by abusing his official position, Mr. Oto derived substantial personal benefit in the total sum of \$756,087.24 in a very short time span of nine months.

Mitigating factors

33. In mitigation, I accept that he has pleaded guilty to 11 serious allegations of corruption. He has save time and resources. He demonstrated remorse. Although he admitted the allegations after the crown has opened its case and commenced to present evidence against him, I consider his guilt pleas and I give him full credit.
34. I take into account that he has no previous convictions.
35. I accept that this case has attracted significant public attention. I consider the humiliation and public disgrace that Mr. Oto and his family are experiencing during these times.
36. He has been suspended from work and that is in some ways punishment for him.
37. Mr. Ngaingeri has asked this court to consider that the chances of Mr. Oto securing any employment in the future are very slim. Counsel submitted that the court should take into account that the prisoner is the sole bread winner in his family. Obviously, Mr. Oto and his family will face some hard times as a result of this case.
38. I must however say that personal hardships in these kinds of situations are not unique and peculiar to this particular prisoner and his family. These are the direct consequences of his actions. These are matters that he should have thought about before he committed these corrupt acts.

Specific and general deterrence

39. There is indeed a need for specific and general deterrence.
40. Mr. Oto and other like-minded offenders must appreciate that corrupt practices are not tolerated in all levels of our society in both the public service and the private sector.

41. The criminality of the offence of official corruption is well captured and succinctly put by the Chief Magistrate, Ms. Emma Garo in the case of *Regina v Henry Murray*,¹ in which the Chief Magistrate stated,

*“The reality of the caseis that (the accused’s) conduct effectively, amounts to discharging his duty, on the one hand, by way of signing certifications and payments with his right hand, in order to receive personal benefits of discharging his official duties with his left hand.”*²

42. The seriousness of the offence of official corruption cannot be expressed in any better way than as described by Judge Naqiolevu in the case of *Regina v John Maetia Kaliuae*,³ in which His Lordship stated,

*“The Court is of the view that the offence of Official Corruption has been eating the very fabric of society at every level in this country. What is of importance is that it is affecting the very leaders within the highest echelon of the government and society.”*⁴

43. There is a need for the courts to be involved in the fight against corruption. On this point, Mr. Talasasa has referred this court to the sentiments made by His Lordship Judge Naqiolevu, in the case of *Regina v John Tebolo*,⁵ in which it was stated,

*“Corruption is a problem within the Solomon Islands that must be addressed, great efforts are being made to address the issue but it also requires the support of the Courts when sentencing offenders to emphasize that they will not tolerate corruption.”*⁶

Maximum penalty

44. The maximum penalty for the offence of official corruption is 7 years imprisonment.⁷

Comparative sentences

45. In the case of *Regina v John Maetia Kaliuae*, the court imposed a total sentence of 3 ½ years imprisonment. Mr. Kaliuae had pleaded not guilty to the charges. He was convicted on 9 counts of official corruption after a trial.⁸

¹ Criminal Case 865 of 2017 in the Central Magistrates Court of Solomon Islands

² Refer to footnote 1

³ [2010] SBHC 30; HCSI-CRC 413 of 2016

⁴ Refer to footnote 3

⁵ [2010] SBHC 27; HCSI-CRC 217 of 2009

⁶ Refer to footnote 5

⁷ Section 91(a) Penal Code [Cap 26]

⁸ Refer to footnote 3

46. In the case of *Regina v John Tebolo*, on appeal the accused was sentenced to 2 years imprisonment and suspended for 2 years. The benefits received by Mr. Tebolo are substantially less compared to this case.⁹
47. In *Paul Yee v Reginam*, the High Court on appeal quashed a sentence of 6 months imprisonment imposed by the learned Magistrate and substituted the sentence with a fine of \$5,000.00. Mr. Yee was a 67 years old man who attempted to bribe a public officer.¹⁰

Appropriate sentence

48. Having considered the maximum penalty, the comparative sentences and the circumstances of this case, I feel that the appropriate sentences are as follows;
 - a) Count 1 – 3 years imprisonment;
 - b) Count 2 – 3 years imprisonment;
 - c) Count 3 – 3 years imprisonment;
 - d) Count 4 – 2 years imprisonment;
 - e) Count 5 – 6 months imprisonment;
 - f) Count 6 – 3 years imprisonment;
 - g) Count 7 – 3 years imprisonment;
 - h) Count 8 – 2 years imprisonment;
 - i) Count 9 – 3 years imprisonment;
 - j) Count 10 – 6 months imprisonment;
 - k) Count 11 – 3 years imprisonment;
49. Counts 1 – 5 were committed in the same year, in 2015, I therefore order that sentences in counts 1 to 5 are served concurrently. The total sentence is therefore 3 years imprisonment.
50. Counts 6 – 11 were committed in 2016, I likewise order that sentences in these counts are served concurrently but consecutively to the total sentence for counts 1 to 5.
51. In total the prisoner is sentenced to 6 years imprisonment.
52. I consider the principle of totality and in my view the total sentence of 6 years imprisonment is manifestly excessive in the circumstances.
53. I therefore impose a sentence of **3 years imprisonment**.

⁹ Refer to footnote 5

¹⁰ Criminal Case No. 319 of 2006

54. This is to be backdated to the day which the prisoner was first taken into custody for these offences.

Recovery

55. I must also add that I do not see any need to impose any orders for recovery. The essence of the offence of official corruption is the abuse of a public office for personal gain. Mr. Oto in this case did not steal, or misappropriate, or convert any public money for his own use. He did deliver the services to the public in consideration for the payments that he received from the Ministry. The criminality of his conducts is that he used his public office and position to his own advantage and to derive benefits for himself. That is the heart of the offence of official corruption. I therefore do not see any need to make any orders for recovery.
56. Right of appeal within 14 days.

