

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

**CRIMINAL JURISDICTION**

**Criminal Case No. 798 of 2018**

**REGINA**

**V**

**BEN BALEOU**



Plea date: July 31, 2018  
Sentencing submissions: August 2, 2018  
Sentence: August 6, 2018

*Mr. I. Tebakota for the prosecution*  
*Accused in person*

**SENTENCE**

1. The accused, Ben Baleou, was charged and pleaded guilty to the following offences:
  - (a) Two count of criminal trespass, contrary to section 189 (2) of the Penal Code – maximum penalty of 1 year imprisonment.
  - (b) Threatening violence, contrary to section 89 (a) of the Penal Code – maximum penalty of 2 years imprisonment.
  - (c) Threatening, abusive or insulting behaviour, contrary to section 178 (n) of the Penal Code – maximum penalty of a fine of \$1000 or 1 month imprisonment.
  - (d) Wilful and unlawful damage, contrary to section 326(1) of the Penal Code – maximum penalty of 2 years imprisonment.

Circumstance of the offending

2. There are two female complainants in this case – Ms. Tari Manore and Ms. Emilyn Harper. Both lived at Riffle Range area when the incident occurred.
3. On the 12<sup>th</sup> of July 2018 at about 11:15pm, the accused was drunk with kwaso and was moving around at the Riffle Range area. Out of nowhere, he picked up a stone and hit a walling of a house occupied by the first complainant Ms. Tari Manore. She woke up and asked the accused why he shot the house but he didn't respond and just walked away. He returned back, walked straight into the house and pulled out a lighting bulb and started to throw away the chairs in an aggressive manner. He then damaged the Masonite walling of that house and at the same time swore at the complainant saying "fuckem dadi blo you, fuckem pipol blo you." He exited the house and the walked to the main road.
4. The second complainant Emily Harper heard the disturbance and went to the accused and asked him about the stoning of Tari's house. He instead entered into her residential area, picked up stones and shot at her house several times. This also damaged a Masonite walling of her dwelling house. She asked him to leave her area because of his disorderly behavior or otherwise she would report him to police.
5. When he heard this, he responded to her saying "mi no warim police, oketa mother fucker, you go lolem koko blo oketa police, you go lolem koko blo oketa dadi blo oketa police, talem oketa police pushum koko blo oketa lo kan blo you, outim and drinkim sperm blo police....you fuckem dadi and brother blo you. Tallem Du and Carmen fuckem brother blo tufala and drinkim sperm blo brother blo tufala."
6. He kept on repeating those swearing words to Emilyn that night.
7. The matter was reported to police and the accused was arrested thereafter. He was brought to the court and pleaded guilty to the charges.

#### Mitigating and personal factors

8. For purposes of his sentence, I take into account his early guilty pleas and being a first time offender. He is a married man and had already paid \$500 as compensation to the one of the complainants, Emily.
9. He was very sorry for what he did and apologized for his wrong doings. He said that he was so drunk with kwaso and that was why he did all those

things. He wanted the court to give him a noncustodial sentence for the offences.

#### Aggravating factors

10. The accused was so drunk that night. He committed the offences against two complainants. He used stones and threw them over residential houses resulting in the damage of the Masonite of the houses occupied by the complainants. These were done repetitively. He repeatedly uttered swearing words that were so disrespectful and offensive to the families of the complainants. Those words also disrespected and defamed the police authority. By uttering them loudly that night, he also intended to humiliate and degrade the complainants. And these offences occurred at night and as the facts revealed, towards the midnight which is an odd hour of the night.

#### Sentencing remarks

11. This is an act of stupidity and silliness at its highest. The circumstance and the manner in which the offences were committed are so serious. This offending involves stone throwing accompanied by uttering of swearing words towards the complainants who were performing a public duty to get rid of the accused for his unwanted and disorderly behaviours the material time. Although I take into account that he had committed the offences because of consumption of liquor, I will not condone this nonsensical type of attitudes. He cannot cover under the cloak or veil of liquor to minimise his culpability. If he consumes liquor and decides to commit a crime then he must be prepared to face the consequence and be part of the solution as well. That is the corresponding duty and expectation that not only him but others who are minded to commit any crime when consuming liquor must seriously take into account.
12. The court needs to send a right deterrent message to discourage this unruly and disorderly behaviour in our town and the country as a whole so that people would live in a peace and safer environment. Nowadays, such untoward attitude displayed by the accused herein has no place in our homes and residential places whether it be in the rural or urban areas. The public at large is sick and tired of this and to impose a noncustodial sentence in light of the prevalence of this offending in my view is a complete joke.

#### Orders

13. I sentence him as follows:

- (a) Two charges of criminal trespass, contrary to section 189 (2) of the Penal Code – 3 months imprisonment term for each charge.
  - (b) Threatening violence, contrary to section 89 (a) of the Penal Code – maximum penalty – 6 months imprisonment.
  - (c) Threatening, abusive or insulting behaviour, contrary to section 178 (n) of the Penal Code – 1 month imprisonment.
  - (d) Wilful and unlawful damage, contrary to section 326(1) of the *Penal Code* – 6 months imprisonment.
14. Order for all sentences to be run concurrently, meaning he will serve **6 months imprisonment**.
15. Time spent in custody is to be deducted from this term of imprisonment.
16. 14 days right of appeal applies to any aggrieved party.

