

IN THE MAGISTRATES COURT
OF SOLOMON ISLANDS

Criminal jurisdiction.

Crim. Case No: 1144/15

In the matter of:

REGINA
-v-
BOSETO METE & MIKE RAMO

Sentence

1. Both defendants were found guilty after trial on one count of Intimidation contrary to section 231(1) of the penal code.
2. On the 10th of June 2015, Mr Ramo came back to his partner's residence at Mbua Valley School. He had noticed that some other people was in the house. He was not happy and left. He return with his friend by the name of Boseto Mete. Both aggressively approached the complainant. They uttered threatening words and shuttered swearing words. There were commotion in that residence which was not identify. The complainant who was invited by the owner of the house (Ms Pauline APATO) to visit his children was threaten by both defendant. He was so frighten for the safety of his life. The defendants were latter left the premises. The matter was latter reported to police and both defendants were charged.

The Law

3. The offence of intimidation under section 231(1) of the penal code.

Section 229 stated:-

"Any person who intimidates or molests any other person shall be guilty of an offence and liable to imprisonment for three years."

4. The principal guideline of sentencing is clearly stated in the case of *Farsy v Reginam*, [2004] SBHC 120; where his Lordship Palmer stated; “ when considering what sentence to impose or would be appropriate, the courts have developed from guiding principles. These are Retribution, Deterrence, Prevention and Rehabilitation. Any Judge who comes to sentence ought always to have those four classic principals in mind and to apply them to the facts.
5. In the case of *Johnson v Tariani*, Court of Appeal of Solomon Islands; where Sir Mari Kapi JA stated; “ *Where the law simply provides a maximum sentence, the courts are given a very wide discretion to determining the appropriate penalty in a case. The courts have developed principles of sentencing which guide the exercise in his discretion.*”

Sentencing Tarrif

6. The usual tariff of the sentence for intimidation handed by the Courts ranged from bound over, suspended sentence, 6 month custodial sentence or even 2 years depending on the circumstances of the offending, the mitigating and aggravating factors, and the personal circumstances of the offender.
7. In the case of *Kilatu v R*, the defendant pleaded guilty to one count of intimidating a taxi driver and other charges. He was sentenced to 6 months imprisonment. He appealed to the High Court and the sentence remained unaltered. In that case, no weapon was used, he was not drunk and a first time offender. The Kilatu’s case was less serious to your case because no weapon was used at the commission of the offence.
8. In *R v Tonny Ramosala*, the defendant who was drunk, intimidated his father and mother after they refused to give him money. In relation to his father, he threatened him with an iron rode which fortunately, his father missed it after being shot. He was sentenced to 1 year imprisonment for that intimidating charge amongst other offences.
9. In *R v Mose Keho*, the defendant who was drunk and armed with a knife intimidated his aunty inside a Kai Bar at Rove. There was no element of planning involved for this offence. He was sentenced to 8 months imprisonment besides his other charges.

10. In your case, the evidence reveals that you did not plan to carry out this offence against the complainants. What makes your case different from the other case is when Mr. Ramo finds out that the former partner of his fiancée was in the house, he went back and bring Mr Mete and executed the threats against the complainant. Both the complainant and the defndants were exchange swearing words that form part of the intimidation tone. There was no extreme duress although the compaliant was concerned about his safety. This differentiates your case with the above mentioned cases like the Kilatu, Ramosala and Keho.
11. Each case must be decided according to its own facts and circumstances to find out where justices to be applied in each cases (*Kabui J, in R v Craig A'Aron; unrep Crim case No: 14 of 1998*).
12. Where the Law provides simply provides a maximum sentence, the courts are given a very wide discretion to determine the appropriate penalty in each case (*Acting Public Prosecutor v Uname Aumane & others (1980) PNGLR 510 at 537*
13. Sentencing is not a process that follows exact mathematical rules. Circumstances and people vary and it is undesirable to consider such comparisons as more than a very imprecise guide. (*Ward CJ, in Joel Likilua Allen Kokolobu v R [1988-89] SILR 148;*).
14. One of the primary goals in sentencing is to look beyond the element of punishment, to setting the accused on the right path when he/she comes out of prison (rehabilitate and reform). There are basically two types of punishment system in this jurisdiction; fines or imprisonment. Both do not necessarily guarantee that a person will change or be reformed once he completes his sentence or punishment.
15. After considering the aggravating factors submitted by the prosecution together with the mitigation of the defendants, in my view, that is not a serious form of intimidation offence.
16. I have considered that both of you were found guilty after trial. The court also consider the criminal climates of this case. However, I will take an approach

based on the fact that although most of the cases referred to as above bear the penalties from penal bound over to imprisonment, each case has to be dealt with on its respective merits.

17. I agree with the prosecution that this kind of trend has become so common in our communities especially within Honiara city, when people taking alcohol with intend to solve the situation. It was conceded that you Mike Ramo was drunk at that time the offence was committed. You have brave enough to do that approached just because you are intoxicated with alcohol. I believe if you sober at that time, you have solve your problem in amicable way without any treats or violence, instead you seek additional men and approach the complainant.

18. When I have weigh the aggravating and the sentencing range of this offence, I am of the view that a fine is appropriate in your case. In addition to the fine, the court intended to enforce a bound over for both of you to keep peace and harmony in the community.

Fine:

Order:

Mike RAMO: fine \$1,000.00

Entered a 12 months bond to keep peace and harmony within the community in the sum of \$300.

Boseto METE: Fine\$1,000.00

Entered 12 months bond to keep peace and harmony within the community in the sum of \$300.

Further ordered that fine to be paid within a week from today's date in-default 6 months imprisonment.

Right of appeal is extended within 30 days from today's date.



Jim Seuika
Principal Magistrate

22/08/2018