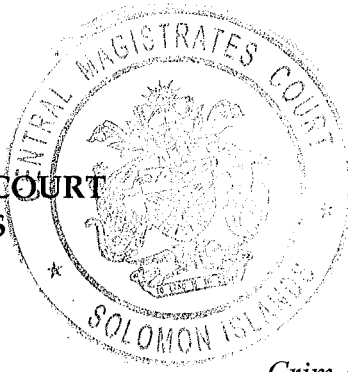


**IN THE MAGISTRATES COURT  
OF SOLOMON ISLANDS**

*Criminal Jurisdiction*



*Crim-case No: 884/2018*

**REGINA**  
**-v-**  
**JOHN BILLY ARU**

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**SENTENCE**

1. On the 23 of August 2018, you have pleaded guilty to one count of Simple Larceny contrary to section 261(1) of the penal code and one count of Damage Property, contrary to section 326 of the penal code.
2. This court entered your convictions and reserves its sentencing to the 27<sup>th</sup> of August 2018 and ordered you to be held in custody. While you are now under the lawful care of awaiting transport, you have escaped from central magistrate court without the authority of police or court. The police act swiftly and arrested you on the next day and laid additional charge of escaping lawful custody.
3. The facts reveals that on the 7<sup>th</sup> of August 2018, you were drunk entered MV Kafe and took a 9.9 Suzuki OBM without the consent of the Crews drives the boat around the jetties and latter return it back. It was from that time the crew discovered the clamp was broken. The total cost of the damaged was valued to SBD\$825.00.
4. The matter was reported to police immediately and you were apprehended and charged with two counts as stated above.

5. I have taken into consideration your personal circumstances in which you pleaded guilty on first opportunity which demonstrates that you are remorseful of your actions.
6. When the court have considered that you are so remorseful, you have committed another crime which have changed the court's attitude towards your convictions.

#### Laws

7. Section 261 (i) of the penal code stated:  
*stealing for which no special punishment is provided under this Code or any other Act for the time being in force is simple larceny and a felony punishable with imprisonment for five years.*
8. Section 326 of the penal code stated:  
*"Any person who willfully and unlawfully destroys or damages any property is guilty of an offence which, unless otherwise states, is a misdemeanor, and shall be liable, if no other punishment is provided to imprisonment for two years."*
9. Section 199 of the Police Act stated as follows:  
" Any person who found guilty on this offence shall be liable on conviction to a fine of 10,000 penalty unit or 12 months imprisonment.
10. I have noted that you are not legally represented. Maybe, you intend not to or perhaps you don't understand the importance and the consequences of being legally assisted before taking pleas on serious offences.
11. Simple larceny is a serious offence which carries a maximum penalty of 5 years imprisonment.
12. Willful and unlawfully damaged of property carries two years imprisonment, whilst Escaping lawful custody bears 12 months imprisonment or a fine of 10,000 penalty unit which equivalent to \$10,000.00 fine. Those penalties indicated that you have facing serious situation.
13. Having considered the circumstances of your case, I am of the view that a custodial sentencing is appropriate.
14. Balancing the facts and the circumstances of this case, the court imposed the following sentences.

15. Simple larceny, the court impose 6 months imprisonment. For the damaging properties, the court impose 3 months imprisonment. Both imprisonment terms to serve concurrent to each other, therefore, six months to serve.
16. On the charge of escaping lawful custody, the court has impose 4 months imprisonment to serve consecutively to count 1 and 2.

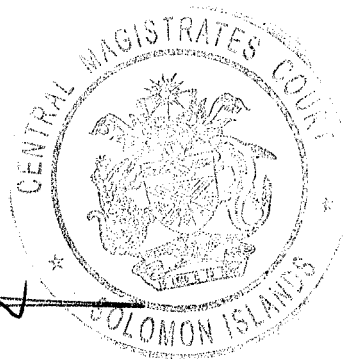
Should the sentence be suspended?

17. Bearing the principle of suspended sentence in mind, I feel that a suspended sentence was not called for in this case. The Court placed no weight on the fact that the first charges were committed on the same date and time. Should the defendant remain under the lawful custody of police, the court might consider suspended sentence. However, the Defendant demonstrate what type of a person he is, when he escaped from a lawful custody when he was ordered to be kept in custody awaiting sentencing. The defendant attitude indicates that he is not being remorse of his action. This is a serious offence which in my view called for a custodial sentence.
18. Based on the above the above reasons, the court concluded that you will serve 10 months imprisonment commencing on the 23 of August 2018.

Order:

- 10 months imprisonment.
- Commence on 23/08/2018

Right of appeal within 30 days.



  
Jim Seuika

Principal Magistrate

05/09/2018