

**IN THE CENTRAL MAGISTRATES' COURT
OF SOLOMON ISLANDS – AT HONIARA**

5/10/2018
Ricky Iomea

Criminal Jurisdiction

Criminal Case No. 597 of 2018.

On the 5th day of October 2018
Before his worship Deputy Chief Magistrate, Ricky Iomea

BETWEEN: REGINA Complainant
AND: CHRIS RUKU Defendant

*Abel Maelanga for the Police Prosecution
Daniel Kwalai for the defendant.*

SENTENCE

The defendant, Chris Ruku has been charged with one count of Assault Causing Actual Bodily Harm contrary to section 245 of the Penal Code. He pleaded guilty to the charge.

The agreed facts for sentencing are that on 28th May 2018 in the evening at around 7:30 pm, the Complainant appeared at Mbuburu area, Lengakiki in Honiara. The Complainant was there to ask her wife to refund his \$500 owed by the wife. The Complainant and his wife had separated and been living separately for sometime. They had an argument about the money and the wife ran away into her uncle Chris Ruku's house for safety. The Complainant was drunk and followed his wife to the defendant's house and swore at his wife, her family members and relatives. This caught the attention of the defendant and the others. The defendant approached the Complainant and they had a struggle, during which both fell to the ground. Whilst they were still struggling on the ground, the defendant pressed the head of the Complainant against the ground which resulted in the Complainant sustaining injuries on the right side eye and the face.

The facts show that the Complainant was drunk and followed his wife to the defendant's house and swore at his wife, her family members and relatives. Assaulting another person even in circumstances that might be provocative to the defendant is prohibited under the Penal Code. That is why the action taken by the defendant to assault the complainant cannot be excused.

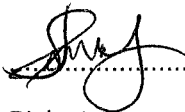
The law is there to deal with those who alleged to have done unlawful acts against others. The reasonable and proper action that the defendant should have taken in such a situation is making a complaint to the Police so that the complainant is dealt with according to law. Instead, the defendant failed to control his anger and emotions and assaulted the complainant. As the Courts continue to say, it is time that members of society realise and understand that resorting to violent actions to counter or resort any unlawful behaviour by another cannot work. It will only bring consequences that one does not desire such as being charged with an offence and face punishment from the courts. The Court has a duty to deter this kind of unlawful behaviour by imposing appropriate sentences for the offence committed and to send the message clear to the public that taking the law into one's own hands or resorting to violence to resolve any wrong done is against the law and cannot be tolerated by the courts. I note that you committed the offence whilst in company of other relatives.

In mitigation I note that the defendant had pleaded guilty to the offence which is not only a demonstration of remorse and willingness to take responsibility for his unlawful action and face any consequences that might follow by way of sentence but, the plea clearly saves time and resources. I note that he is a first time offender. He is 59 years old with 4 children.

The maximum penalty for this offence is five years imprisonment. Given the circumstances of this case and the fact that the defendant is a first time offender, had pleaded guilty and I believe he has learnt from what he did, I am of the view that an immediate custodial sentence is not warranted. Section 24 (3) of the Penal Code gives power to the Court to impose a fine instead of imprisonment even if imprisonment is the prescribed penalty.

Having balanced the facts of the case, the aggravating factors, the mitigating factors and the defendant's personal circumstances, the plea of guilty and that he is a first time offender, I am of the view that instead of imposing an immediate imprisonment sentence, I will impose a fine against the defendant. He is accordingly sentenced to pay a fine of \$2,000.00. In default, three months imprisonment. Payable by 4:30 pm on 19th October 2018.

The court



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Ricky Iomea – Deputy Chief Magistrate