

IN THE CENTRAL MAGISTRATES COURT)
OF SOLOMON ISLANDS AT HONIARA)
(*Criminal Jurisdiction*)

Criminal Case No: 926 /2018

REGINA

-V-

THOMAS VIROVOLOMO

SENTENCING RULING

Mr. Riwa for the Police Prosecution

Mr. Pulekera for the defendant

Plea date: 14th Sept 2018.

Sentencing date: 10th Oct 2018

CHARGE:

The Defendant in this case namely Thomas VIROVOLOMO has been charged with 3 counts of domestic violence contrary to section 4 (1) (a) and section 58 of the Family Protection Act. This is all committed against his girlfriend who is the victim namely Fiona TUVA. He pleaded guilty to all 3 counts on 14th Sept 2018. The matter was adjourned since then for sorting out of the sentencing proceedings documents such as the agreed facts and submissions. I withheld the conviction as I needed to hear full submissions and mitigations.

FACTS:

They have been in a relationship for about 3 years when the incidents occurred.

Count 1- occurred on 25th July 2018 at Lilis Restaurant during the lunch hour. The Victim was with a friend when the Defendant

came. They engaged in a teasing conversation which may have offended the Defendant so he punched her on her face causing bleeding to her nose.

Count 2- occurred on 29th July 2018 at about 2pm. The Defendant was not happy with some texts on the Victims mobile so he shot her with the phone which landed on her face causing minor injuries.

Count 3- occurred on 30th July 2018- the Defendant kicked and punched the Victim on her back on that date.

I have considered the whole facts agreed to by both parties and filed on 2nd Oct 2018. And that is also attached to my ruling as it was the basis of my full deliberation for the offending committed by the Defendant.

AGGRAVATING FEATURES:

I noted that the Victim is a vulnerable member of the society. There was also weapon used in the offending for count 2. Blindness may have also occurred with the way the Defendant injured the Victim. Another features that falls in this category is for count 1- public place causes humiliation to the Victim being assaulted in such place.

MITIGATING FEATURES:

The Defendant is remorseful and regrets his actions as submitted by his counsel. He also pleaded guilty at an early stage. This has saved court time and resources. He is a generally good character person as shown with his cooperation with police since the case was dealt with by them. He gave full admissions as well. There is also the absence of preplanning and pre meditation. This shows they all occurred in the spur of the moment and is mitigating for the Defendant. Furthermore he has reconciled with the Victim by paying \$50.00 and this has been evidenced with her statements filed by Defence as part of their mitigation as well.

PERSONAL CIRCUMSTANCES:

The Defendant is 22 years old, while the Victim is 21 years old. He is a student and is still actively participating in his studies. He has plans ahead of him to further his studies and get scholarship to facilitate all that he plans. He comes from a family of 7 children including himself. He has 5 sisters and

a brother. His father has passed away while his mother is still alive to survive and help out with their family needs. His mother though of an old age has been informally working by selling cakes to cater for his school fees. Amongst his siblings he is the only one still engaged in the formal education sector which also leaves him to be the only hope for his family. This is probably the strongest mitigating factor he has plus the fact that he is a first time offender.

LEGAL ANALYSIS:

In my analysis, I understand fully the need to deter the Defendant and the general public on such matters as Domestic Violence as it is a real concern. So this is factored into my ruling. On the other hand I also note the other aspects of his case particularly the mitigating factors that outweigh the aggravating features. These show rehabilitation is also important to give the Defendant the chance to change into a better person in the society.

I further note the case authorities on such matters like the case of *R v Amelia Kabui* which I had highlighted to Defence if they wish to submit on it as well. They have done so. As I understand it, the Defendant in that case was given the chance to continue with her studies so no custodial sentence was imposed. However she faced more serious charges including assaulting a police officer with a maximum of 5 years imprisonment.

Prosecution on the other hand did not object much on the defence submission for a none imprisonment/custodial penalty and the consideration for the Defendant studies. I have also gone through other authorities relevant for this matter and used as guidance as no case is of the same circumstance and nature.

In doing so I will agree that the Defendant being a student should be considered in light of section 35 of the Penal Code. This I do after considering all the aggravating features, mitigating and personal circumstances of the Defendant.

I therefore will not enter conviction for the Defendant for his guilty pleas but would discharge him with conditions to reflect

the criminality of his offending on those 3 occasions. This is mainly because of his studentship and powerful mitigating factors already highlighted which display extenuating circumstances in my view.

COURT ORDERS:

The conditions I see appropriate are as follows:

Count 1- fine of \$150

Count 2- \$150

Count 3- \$100

All to be concurrent fines as they occurred on different but close dates with the same victim. On the other hand if I impose them consecutively, it would have crushing effect on the Defendant. They are therefore made concurrent so the Defendant is fined for \$150 with count 1 being the head sentence for his offences.

Fine must be paid by 24th Oct 2018 at 330pm.

Right of appeal is attached as well for any aggrieved party to do so within 14 days from today.


Tearo Beneteti
Principal Magistrate

