

**IN THE SOLOMON ISLANDS MAGISTRATES' COURT
AT HONIARA**

Criminal Case No. 937 of 2018

**REGINA
v.
Carlos LELAPITU**



Before: Principal Magistrate Ms. Fatimah Taeburi
Mr. Elison Konle for the Crown.
Mr. William Kadi for the Defendant.

Date of Sentence: 23rd October 2018

SENTENCE

1. On the 12th of October 2018, the defendant pleaded guilty to one count of house break in contrary to section 300 (a) of the Penal Code.
2. I enter a conviction against him.
3. The agreed facts in the case were tendered on the 19th of October 2018 and parties made submissions on the appropriate sentence on the same day.
4. The facts that were agreed upon are as follows;
5. On the 1st of September 2018 at about 3am, the defendant broke into the Central Magistrate's Court precinct.
6. He climbed over a fence. He used a knife and by force he opened the doors to one of the court rooms in the court compound.
7. He went into the court room and stole a laptop and an audio mixer.
8. The security officers saw him walking out of the court. They approached him and restrained him.
9. They removed the properties from him. They also found that he was armed with a knife at the time.

10. He was then taken to the Central Police Station where he was formally arrested and charged.
11. I must state at the outset that the defendant is a 17 years old boy therefore he is a young offender under the Juvenile's Offenders Act. He must be treated differently from other adult offenders who have been convicted for the same offence.
12. The aggravating factors in this case are as follows;
13. That there was premeditation. The fact that he climbed the fence of the Magistrate's Court and he had a knife in his possession shows that he had carefully planned and calculated the offending.
14. He was armed with a knife. Mr. Kadi submitted that I should not consider the knife as a weapon and I should not consider it an aggravating feature because the defendant did not use it to cause harm to another person. I do not agree with this line of argument.
15. Although he did not use the knife to cause any bodily harm to another person, he did use it to gain access into the court room in order to steal the items. Therefore he has used the knife in the commission of an offence. He was at that point, not only illegally in possession of a knife, but had also used the knife as a weapon to enable him to commit an offence. I consider the knife as a weapon and I consider it as an aggravating factor.
16. The prosecutor submitted that a break in at the Court House should be considered as more serious than a break in at any other government or state offices. I disagree because I do not see any justification for this argument.
17. Every government and State offices should be treated with the same respect. Furthermore, business houses or private residence should also be given the same treatment.
18. If the break in was purposely to steal or destroy any court file or item in relation to any court case, then I would have treated the case different to other ordinary break ins. But that is not the case here. The break in here was purposely just to steal valuable items.
19. The prosecutor also submitted that I should punish this offender more severely than other juvenile offenders who were convicted of the same offence. This is because this accused is the son of a former Magistrate here at the Central Magistrate's Court. Again, I disagree with this argument.

20. Information as a persons' age, parentage, place of origin, religion, sex and so forth do not necessarily aggravate or mitigate an offending. These are information to assist the court to understand the background of an individual who is brought before it.
21. I now consider the mitigating factors.
22. I take into account that this accused has pleaded guilty. He has demonstrated remorse. He has also made a statement in court in which he expresses that he is extremely sorry for the wrongs he has done and he asked for God's forgiveness. I find that he is very remorseful.
23. I take his young age into account. He has no previous convictions.
24. I accept that this defendant has a higher possibility of rehabilitating because of his tender age, his remorse and his clean history.
25. I take into account that the properties stolen were fully recovered. The Magistrate's Court suffers no real loss from the incident.
26. I take into account his personal circumstances. I also consider the time he spent in custody.
27. I note the need for specific and general deterrence. Incidents of break ins and burglaries are common and prevalent in Honiara. This is the not the first case of break in and it will not be the last one.
28. This defendant and other like-minded offenders must learn to respect other people's properties. A means of passing this message in the society is through the sentences imposed by these courts.
29. The maximum penalty for house break in is 14 years imprisonment.
30. In the case of *Bade v Reginam*,¹ the Court stated,
- For a normal burglary case, the only appropriate penalty must be an immediate custodial sentence.*
- Where the burglary is not aggravated in any way, the starting point for an adult first offender should be two years imprisonment.*
31. In this case, the accused is a juvenile, thus I feel that an appropriate starting point is 1 year imprisonment.

¹ [1988] SBHC 10

32. I add 1 year for the use of weapon and premeditation.

33. I deduct 8 months for his guilty plea.

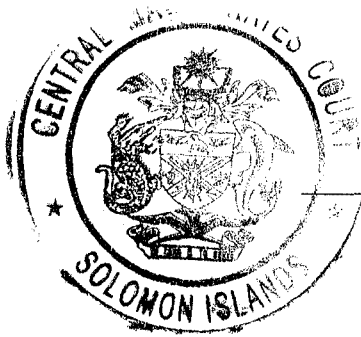
34. I deduct another 4 months for the other mitigating factors.

35. I have considered the sentencing options in section 16 of the Juvenile's Offenders Act. In my view, the appropriate punishment in the circumstances of this case is to sentence the defendant to imprisonment as stipulated in section 16 (j) of the Act.

36. I am satisfied that the appropriate sentence is 1 year imprisonment.

37. Time spent in custody to be taken into account.

Right to appeal within 14 days.



Fatimah Taeburi
Principal Magistrate