

IN THE SOLOMON ISLANDS MAGISTRATES' COURT
AT HONIARA
Criminal Case No. 457 of 2019

REGINA
V
MATHIAS SOGA
ISHMAEL MASO
CHRISTOPHER PWE'A

Before: Principal Magistrate Ms. Fatimah Taeburi
Mr. Samuel Tovosia (DPP) for the Crown
Mr. Rodney Sholto Manebosa (PSO) for Mathias Soga
Mr. Andrew Bosa (PSO) for Ishmael Maso
Mr. Michael Fagani (PSO) for Christopher Pwe'a

Date of Hearing: 30th October 2019
Date of Ruling: 13th November 2019

SENTENCE

Introduction

1. There are three defendants in this matter. They are all charged with one count each of robbery contrary to section 293(1) (a) of the Penal Code.
2. They are charged for robbing the Street Star Shop at the Savo Market area in the West Honiara.
3. On the 25th of October 2019, all three defendants pleaded guilty to the charges against them.
4. I convict them on their guilty pleas.
5. They are now here to be sentenced by this court.

Agreed facts

6. The following facts are agreed in this case;

7. On the night of May 11 2019, as the owners of the Street Star Shop were closing down, rocks were thrown at the shop.
8. The shop keepers tried to close the doors but it was impossible as the rocks were continuously thrown at them.
9. All of a sudden, the three defendants entered the shop. Soga approached the owner of the shop and took a flash light. He threatened the owner. He jumped over the shop counter and smashed the glass on the counter using the flash light.
10. Ishmael Maso assaulted the owner of the shop. Soga took 9 mobile phones from inside the counter and handed them over to Maso.
11. Soga moved to a drawer where monies were kept. He took the monies inside the drawer and put them inside a plastic bag.
12. All the three defendants were present inside the shop and they all took part in committing the offence.

Aggravating factors

13. I take the following aggravating factors into account;
14. The defendants used force, violence and aggression to firstly gain entry into the shop and then to actually rob and steal from the shop owners. They threw rocks to prevent the owners and the shop keepers from the closing the doors. They entered with force and violence. One of them assaulted the owners of the shop. One of them broke the counter glass. And they threatened the owners and the workers at the shop.
15. The owners and the shop keepers must have feared for their lives.
16. I find that there was premeditation. Mr. Fagani on behalf of Mr. Pwe'a submitted that there was no

premeditation. I do not see how the offending here was unplanned in light of the fact that the defendants acted in a group and threw stones at the shop to gain entry. Clearly they had a plan to rob the shop which is exactly why they acted together to cause fear to the owners and the workers of the shop.

17. It is aggravating that they stole 9 mobile phones. I consider the value of the properties stolen, the value of the damage caused on the glass counter and the loss suffered by the complainant.
18. It is also aggravating that they robbed right in front of the owners of the shop and in the eyes of the public. The shop is located besides the public road. There must have been people around the area when they robbed the shop. It is indeed a great concern that young men like these have the courage to commit criminal acts in front of others and in the public.
19. They committed the offence in a group, which is serious in my view.

Mitigating factors

20. I consider the following mitigating factors;
21. They have all pleaded guilty to the charges. They demonstrated remorse and save time and resources.
22. For Mr. Maso and Mr. Pwe'a, they have no previous criminal convictions. I take into account that they are both very young men. In my view there is a good prospect of rehabilitation with Mr. Maso and Mr. Pwe'a.
23. I cannot say the same for Mr. Soga. He has previous conviction on the offence of receiving stolen properties. He also has an outstanding case on an allegation of assault. His prior conviction and the fact that he has been charged for another criminal allegation, does not aggravate the circumstances of the current offending in anyway, but it means that I cannot treat him the same with Mr. Maso and Mr. Pwe'a.

Soga must be sentenced more severely than his co-accuseds.

24. I take their personal circumstances into consideration.
25. I must make comments on the submissions by Mr. Fagani on behalf of the accused Mr. Pwe'a. The counsel submitted that his client was unaware of the initial plan of the group. Mr. Fagani argued that the Crown did not charge his client under section 21 of the Penal Code.
26. I totally disagree with this line of argument. Mr. Pwe'a was involved with the others from the time of the stone throwing. It is reasonable to infer that he knew at that time the intentions of the group. Obviously, he had joined the group from that time to ensure that the plan is executed. Under section 21 of the Penal Code, he is deemed to have taken part in the commission of the offence and he is also criminally responsible for the events that transpired.
27. In sentencing the defendants, I take into account the need for general deterrence. There have been quite a number of robberies with violence on various shops and businesses in Honiara. These Courts must pass sentences to send a message to the society that people who steal and assault innocent shop owners, will be arrested by the police. They will be brought to court and punished.
28. This is a message to these defendants and other like-minded offenders. Stealing is a shameful and disgraceful act. Stealing with violence is even more disgraceful. Do not bring shame to yourself and your families.
29. No man will sustain himself and his family by stealing and robbing others. Man must work and sweat in order to survive.
30. The maximum penalty for the offence of robbery is life imprisonment.

31. In my view the appropriate sentences are as follows;

- a) Mr Ishmael Maso is sentenced to **2 ½ years imprisonment;**
- b) Mr. Christopher Pwe'a is sentenced to **2 ½ years imprisonment;**
- c) Mr. Mathias Soga is sentenced to **4 years imprisonment.**

32. The time spent in custody is taken into account.

33. Right to appeal within 14 days.



Ms. Fatimah Taeburi
Principal Magistrate

