

IN THE SOLOMON ISLANDS MAGISTRATES' COURT  
AT HONIARA  
Criminal Case No. 1196 of 2018



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REGINA  
V  
JUNIOR MARKLYN

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Before: Principal Magistrate Ms. Fatimah Taeburi  
Mr. Jonathan Lui Auga (DPP) for the Crown  
Mr. Bobby Harunari (PSO) for the defendant

Date of Sentence: 20<sup>th</sup> November 2019

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## SENTENCE

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### Introduction

1. The accused pleaded guilty to one count of arson contrary to section 319 of the Penal Code.
2. He burnt down his father's old kitchen. The kitchen was valued at \$5,200.00.
3. I convict the defendant on the facts agreed.
4. In sentencing him, I consider the following aggravating factors;
5. I find that there was premeditation.
6. I consider the loss on the accused's father and the family.
7. In mitigation, I consider the following factors;

8. He pleaded guilty. He demonstrated remorse and saved time and resources.
9. He is a young man of 23 years of age.
10. He has no previous convictions. There is a higher prospect of rehabilitation with this particular defendant given his age and his clean criminal history. In his letter dated 17 October 2019, the accused's father (the complainant) has also observed positive changes in the behaviour of the defendant.
11. I also consider that the kitchen was not used by the family at the material time. Furthermore, it is not located anywhere near other residential houses.
12. I consider all other personal circumstances of the defendant.
13. The defence counsel submitted that the court considers suspending any custodial sentence imposed. I accept that the facts of this case are far less serious compared to other cases of arson. I also accept that this case falls on the lower end of the scale for this type of offending. I must however state that arson is a serious and an aggravated offence that attracts a custodial sentence.
14. The maximum penalty for arson is life imprisonment. This court has the jurisdiction to impose sentence on the defendant given the increase in jurisdiction for the offence of arson.
15. In *Kaleti v Regina*, the accused was convicted and sentenced in the Magistrate's Court to 4 years imprisonment for the charge of arson. He appealed against the sentence on the basis that it is manifestly excessive. In that case, the defendant with others burnt a dwelling house which was valued at \$15,000.00.
16. The High Court held that the value of the property was at the lower end of the scale compared to other cases. More importantly, the High Court held that the sentences imposed for the offence of arson ranges from

3 - 5 years imprisonment. The High Court accepted that the starting point is 3 years imprisonment.

17. I adopt the same starting point in this case.
18. I consider the aggravating and mitigating factors and I am satisfied that in the circumstances of the case, the appropriate sentence is 1 year imprisonment.
19. I have the discretion under section 44 of the Penal Code to suspend an imprisonment sentence of not less than 1 year and not more than 2 years.
20. I consider that there is no use or illegal possession of weapon in this case. I also consider that the incident arose out of a disagreement within a family which has been resolved. I also consider that the defendant has spent about 2 months and 1 week in custody for this case.
21. The time that he has spent in custody is included in the sentence of 1 year imprisonment. I exercise my discretion under section 44 of the Penal Code and suspend the remainder of the sentence.
22. Pursuant to section 44(6) and section 45 of the Penal Code, the accused is informed that if during the period of suspension, he commits an offence punishable by imprisonment; he will be liable to the original term of imprisonment or any other orders made by the court.
23. Right to appeal within 14 days.

*Fatimah Taeburi*

Ms. Fatimah Taeburi  
Principal Magistrate

