

IN THE CENTRAL MAGISTRATES COURT
OF SOLOMON ISLANDS



Case No. 1240 of 2018

BETWEEN: REGINA

AND: OLIVER KASI

Coram: Emily Vagibule (Magistrate of the Second Class)

Crown: Ms Belapitu

Defence: Mr Harunari

Date of hearing: 9th January 2019

Date of Sentence: 10th January

SENTENCE

Facts

1. The Defendant Mr. Oliver Kasi is charged with one count of Common Assault, which is contrary to Section 244 of the Penal Code.
2. Section 244 of the Penal Code states:

Any person who unlawfully assaults another is guilty of a misdemeanour, and, if the assault is not committed in circumstances for which a greater punishment is provided in this Code, shall be liable to imprisonment for one year¹.

3. The facts to this case are as follows, The Defendant is Mr. Oliver Kasi, a male person from Geta Village at Star Harbour district in the Makira Province. Mr. Kasi is a suspended Police Constable stationed at the Central Police Station. Prior to the time of the incident, the Defendant was residing at East Kola Ridge in Honiara. On the night of the incident, the Defendant and his girlfriend were at the Central Police Station compound. They were there to see PC Moses Poly; it was on their return that the Defendant had an argument with the victim. It was due to this argument that the Defendant head butted the victim's forehead.
4. Following this incident, the Defendant was arrested on the 18th of December 2017 and has been released on bail to this date. He was arraigned on the 24th of December 2018

¹ Section 244 of the Penal Code

where he pleaded guilty to the charge laid against him. This matter came to court for two mentions, and on both occasions, the Defendant failed to appear. Had this matter been brought to Court in early 2018, the Court could have already disposed the matter. I believe that this delay is not caused by the Defendant but by the officers in carriage of this matter within the police.

5. Counsel for the Crown and Defence Counsel have both filed their written submissions and have both indicated that they will be relying on the written submissions. In their submission, the Crown had highlighted the following aggravating features:
 - a) The offence of common assault is a serious offence which is reflected in the 1 year imprisonment prescribed for the offence.
 - b) The Defendant was drunk at the time of the offending and behaved in a manner that is unacceptable especially since he is a Police officer.
 - c) The attack on the Complainant was unprovoked.
 - d) The Complainant was attacked in front of other Police officers within the station, which was humiliating and embarrassing for him.
6. At this stage, the Court is not clear as to what really provoked the incident and if others were also involved. Defence Counsel did mention how the incident came about but was silent on whether the argument was due to a long time grudge or was due to something the Defendant did with the Police compound prior to the incident.
7. As part of his mitigating features, Counsel for the Defence highlighted the following:
 - a) Personal and family circumstances of the Defendant.
 - b) First time offender.
 - c) Cooperation with Police.
 - d) Reconciliation completed.
 - e) Early guilty plea.
 - f) Act of provocation.
8. Based on the facts, the Court understands that the Defendant was arrested on the 18th of December 2017 and was released on bail. It took until the 23rd of November 2018 for the matter to be registered with the Court since the arrest. No explanation was done by both parties in light of this delay and it seems that this is an area that needs to be addressed for future cases.
9. Before addressing the appropriate sentence, I must first of all say that our laws are being implemented for a very important reason. A very classic example is to guide us; it tells us what to do and what not to do. Once we see the importance of our laws, we will not end up in very complicated situations such as this.
10. Both Counsels have indicated before this Court the type of sentence to be imposed and their reasons for suggesting such sentence. I refer to the case of *Regina v Ramosala [2016] SBMC 8; Criminal Case 1297 of 2015 & 27 of 2016 (5 April 2016)* where it states that: *In relation to common assault charge, the tariffs imposed by the Courts also ranged from bound over, fine, good behaviour, suspended sentence, 4 months' imprisonment or even 1 year depending on the circumstances of the offending, the mitigating and aggravating factors and the personal circumstances of the offender*².
11. In *Sahu v Regina [2012] SBHC 122; HCSI-CRC 504 OF 2011 (3 October 2012)* it is stated at paragraph 6 to 8 that:

² [2016] SBMC 8; Criminal Case 1297 of 2015 & 27 of 2016 (5 April 2016)

It is well accepted that the technique of comparing sentences imposed in different cases is of limited assistance and provides only imperfect guidance as to the appropriate sentence in any given case³.

This is particularly so when the accused occupies a position of authority, trust or public responsibility. Obligation and accountability vary as much as the factual scenarios that produce them⁴.

In the case of a police officer, the very highest standards of probity, honesty and integrity are demanded for without them the foundations of a law abiding, civilised community will disintegrate⁵.

12. As a Police officer, the Defendant is obliged to know that handling things in his own hands is against the law and most probably will cause him to end up in jail.
13. I consider all the mitigating and aggravating factors pleaded by both Counsels and see that there is an urgent need for deterrence both specific and general. I also note that the Defendant is currently suspended from his duties as a police officer and is facing challenges as a result.
14. This is not the time for the Defendant to ask the Court to consider his personal circumstances since he should have thought about the impact his actions would have on him before proceeding into an act that would cost him dearly.
15. Based on the Court's assessment, I am not inclined to accept the Defendant's submission to pay a compensation of \$200 to the Claimant.

Orders of the Court

With the seriousness of this offence, I am of the view that the appropriate sentence to be imposed for this Defendant is:

A. 3 months' imprisonment, wholly suspended.

B. Right of appeal applies.



Magistrate Emily Z Vaginule



³ [2012] SBHC 122; HCSI-CRC 504 OF 2011 (3 October 2012)

⁴ Above n 3

⁵ Above n 3