

IN THE BUALA MAGISTRATES')
COURT OF SOLOMON ISLANDS)

(Criminal Jurisdiction)

Criminal Case No. 403 of 2019 BMC



REGINA

-v-

ALFRED KENISOKEA

Prosecution: Mr Lekumana of Buala Police Prosecutions
Defence: Accused in person
Plea date: 24th May 2019
Sentence: 24th May 2019

SENTENCE

Background of Case

1. You, Mr Alfred Kenisokea, appear before me today, 24th May 2019, with one count of Intimidation contrary to section 231 of the *Penal Code*.
2. You wished to proceed on with the matter without any legal representation and you were arraigned.
3. You pleaded guilty to that offence and I convict you.
4. The fact was read to you pidgin and you agreed to the facts. You also added to the facts which Prosecutor Lekumana did not object. I will repeat the whole facts. I wish only to highlight the essential facts of your case. You were drunk and you saw that your wife was also drinking beer. You became angry of your wife drinking beer and accuse a woman, Linda who was sitting beside your wife to have made your wife drink beer. Linda's husband, your uncle, intervened to stop you from further accusations. But you walked to your kitchen and got a bush knife. You returned but someone knocked the knife from you and whipped you with a stick. However, your uncle was afraid when you took the knife and approached them aggressively. You were charged for that action.

Maximum Penalty

5. The maximum penalty of Intimidation under section 231 of the *Penal Code* is 3 years imprisonment. The maximum is reserved for its worst kind of offending.

Aggravating and Mitigating factors

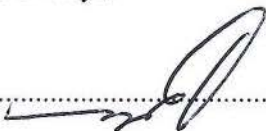
6. I have considered the facts and the submissions, by the Prosecutions and the Accused person in court. I also had the benefit of observing the demeanour of the Accused in court.
7. With aggravating factors, I noted only one. You were Drunk. Being drunk makes your case serious. When one is drunk, one tend to be different as when he or she is sober. That is, actions or force used may be less controlled compared to when one is sober.
8. The Mitigating factors are several. You are first time offender with no previous conviction. The Court sees you as a person who has lived a good life. A law abiding citizen until you were convicted of the current offence. You pleaded guilty to the offence at the first reasonable opportunity. It makes you a person who is willing to owe up to any wrong you have done. You reinforced to that in court by saying that you are sorry. You have reconciled with the victim. That, I must consider it to reduce the sentence I impose. You have a child and wife. You are the Breadwinner.

Sentencing Consideration

9. Intimidation is an offence which is serious by its maximum sentence. It goes to clearly echo what our people do not want. I must qualify what I mean people. People elected Legislators. Legislators in return make the laws for us.
10. It was fortunate that the bush was knife was knocked out from your hand. Otherwise, who knows what will happen, if you continued with the knife to your uncle?
11. Regardless of the seriousness in my consideration, I take the offending as one at the lower end of the sentencing range.
12. I take the starting point of your sentence as one year imprisonment.
13. I reduce it by six months to reflect your mitigating factors.
14. Standing back, I see that the sentence has not reflected someone who can be rehabilitated. It will only bring a crushing effect. I, therefore, suspend the sentence wholly for one year.

ORDERS

15. Impose a sentence of 6 months imprisonment.
16. The Sentence is suspended wholly for one year.
17. In default, the Convict is to be reinstated with his 6 months imprisonment and face his new charge.
18. Right of Appeal within 14 days.



Ishmael Kekou – Magistrate First Class

