

IN THE BUALA MAGISTRATES' )  
COURT OF SOLOMON ISLANDS )

(Criminal Jurisdiction)

Criminal Case No. 423 of 2019 BMC

**REGINA**

-v-

**HURRY ATKIN**



Prosecution: Mr Lekumana of Buala Police Prosecutions  
Defence: Accused in person  
Plea date: 28<sup>th</sup> May 2019  
Sentence: 28<sup>th</sup> May 2019

**SENTENCE**

Background of Case

1. On 24<sup>th</sup> May 2019, you were sentenced to imprisonment for one year for two counts. They were common assault contrary to section 244 of the *Penal Code* and Assault causing actual bodily harm contrary to section 245 of the *Penal Code*.
2. You appear before me today for a count of escaping lawful custody contrary to section 199 of the *Police Act*.
3. You pleaded guilty to the charge and I convict you accordingly.
4. The facts of the case are simple. On 24<sup>th</sup> May 2019, at around 6pm or 7pm, you were under lawful custody of police and serving your term imprisonment term of one year. However, you walked away from the Police Station and escaped. You walked all the way back to your village, Kolomola Village. Police was alerted. On the next morning, on 25<sup>th</sup> May 2019, Police arrested you and brought you back to the Police Station.

Maximum Penalty

5. The maximum penalty of Escaping Lawful Custody under section 199 of the *Police Act* is 12 months imprisonment.

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. You have a sentence and you are serving time for that sentence. But you escaped from it. I could not be convinced that it makes your case serious because it is the offence itself. Escaping from lawful custody. I will not count it as aggravating.
8. The mitigating factors in your benefit are that you took an early guilty plea. I consider that you are a young person who already is serving time of one year. You still have a lot to encounter in life. Maybe this is a life changing experience. I will consider that you are person who can be transformed with the one year sentence on your head.

#### Sentencing Consideration

9. You have realised how hard it is to be placed in a cell. You complained of the suffering. I cannot sympathize with you but can understand from my observation that you do not understand how the procedure and system of the Police runs. You acted out of ignorance and escaped.
10. I failed to see how you escaped. Nothing in the facts showed that you broke anything (door mainly) to escape. I am not satisfied with the Police facts. However, I must be mindful, that an escape is an escape. How one does it is the same.
11. What I am now looking at is, what is your appropriate punishment?
12. Prosecutions asked for 8 months imprisonment. You asked for no imprisonment. How could you not serve any punishment for escaping. I agree with the prosecutions that it would be appropriate for custodial sentence.
13. I take the starting point as 8 months imprisonment.
14. I reduce it for the mitigating factors to 4 months imprisonment.
15. I stand back and look at the sentence and I am convinced that there will be crushing effect on you. You are a young man. One mistake. Two mistakes. I see that you already is suffering the consequence. You will learn. I am relying on a hope that you will be transformed to become a better person.
16. Therefore I will impose a sentence of 4 months but I will suspend it for 6 months. The sentence will take effect after you imprisonment term of one year.

#### ORDERS

17. Impose a sentence of 4 months imprisonment.
18. The Sentence is suspended six months wholly.
19. The Sentence is to be taken in consecutive to the one year imprisonment term he is now serving.
20. Right of Appeal within 14 days

  
Ishmael Kekou - Magistrate First Class

