

**IN THE CENTRAL MAGISTRATES COURT OF SOLOMON ISLANDS  
AT TULAGI**

(Criminal Jurisdiction)

Criminal Case No: 67 of 2019

**REGINA**



-V-

**ROBERT RONGO**

Coram: HOLLISON F (PRINCIPAL MAGISTRATE)

*Appearances:*

Mr J. Saugaro and E. Kangea for the Crown (CIP Police Prosecutions)

Mr F. Kama of Public Solicitors Office for the Defendant

**Date: 16 July 2019.**

Notice: *This copy of the Court's Reasons for Judgment is subject to formal revision prior to publication.*

**SENTENCE**

1. The Defendant, Mr. Robert Rongo was charged with one count of intimidation contrary to section 231(1) of the *Penal Code* [Cap 26], and one count of common assault contrary to section 244 of the *Penal Code* [Cap 26]. Before the defendant took his plea, the Prosecutions made an application for the withdrawal of the first charge of intimidation pursuant to section 190(2) (b)(i) of the *Criminal Procedure Code* [Cap 7] which was granted.
2. He pleaded guilty to the remaining count of common assault contrary to section 244 of the Penal Code [Cap 26]. I now enter a conviction against him based on the plea entered.
3. The defendant or offender agreed with the Amended Summary of Facts.

Facts

4. On or about 11 November 2018, at about 1900hrs, the offender slapped Mr Luke Siota, who is the offender's nephew and his sister Sarah Liliko's son at Siarana Village, Central Islands Province. He was very aggressive during the time of the offending. He slapped the complainant's head on the right side with his right hand. The complainant felt great pain and he did not sleep well that night. The matter

was reported to the Police and investigations were carried out. The offender was arrested, charged and bailed to appear to attend this Court.

#### Discussion and Analysis

5. Section 244 of the *Penal Code* [Cap 133]<sup>1</sup> provides as follows:

*244. 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 year.*

#### Aggravating Factors

6. The aggravating factors are as follows:

- 1) The offender slapped the victim, although open palm, but it was directed to the head which is a sensitive and vulnerable part of the body.
- 2) The victim is his nephew and still in his teens.
- 3) The maximum penalty for common assault is 1 year or 12 months imprisonment.

#### Mitigating Factors

7. The mitigating factors are as follows:

- 1) He pleaded guilty in the first instance which saves the court's time and resources.
  - 2) He had no prior conviction records or first time offender.
  - 3) He cooperated with the Police.
  - 4) He is an active member of his church.
8. This case is not very serious as the aggravating factors do not really warrant a custodial sentence. Notably, there was no use of any weapon. After having considered the aggravating and mitigating factors, I am of the opinion that a penalty fine is relevant for this case rather than a custodial sentence.

9. section 24(3) of the *Penal Code* [Cap 26]<sup>2</sup> provides as follows:

*(3) A person liable to imprisonment for an offence may be sentenced to pay a fine in addition to or instead of imprisonment.*

10. Section 25(a) of the *Penal Code* [Cap 26]<sup>3</sup> provides as follows:

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<sup>1</sup> *Penal Code* [Cap 25] S 244

<sup>2</sup> *Penal Code* [Cap 25] S 24(3)

<sup>3</sup> *Penal Code* [Cap 25] S 25(a)

25. Where a fine is imposed under any law, then in the absence of express provisions relating to such fine in such law the following provisions shall apply -

(a) where no sum is expressed to which the fine may extend, the amount of the fine which may be imposed is unlimited, but shall not be excessive;

11. Therefore, based on section 24(3), I opined that a penalty fine of SBD 1000 dollars should be imposed against the offender instead of an imprisonment term.
12. The offender should take this as an opportunity to learn, and to solve family and domestic issues in an amicable manner through counselling or consulting the chiefs or any forums that can assist, rather than taking the law into his own hands. This should also send a message of general deterrence to the members of the public.
13. I therefore issue the following orders:
  - 1] **The offender is sentenced to a fine of SBD 1000 dollars for committing the offence of common assault contrary to section 244 of the *Penal Code* [Cap 26].**
  - 2] **This penalty fine prescribed must be paid within two weeks from the date of this Judgment.**
  - 3] **In default of payment, the offender will be imprisoned for forty days.**
  - 4] **Right of Appeal within 14 days of this ruling.**



**PRINCIPAL MAGISTRATE FELIX HOLLISON  
THE COURT**

