

IN THE CENTRAL MAGISTRATES' COURT
OF SOLOMON ISLANDS

Criminal Jurisdiction

Criminal Case No. 517 of 2019

On the 30th day of October 2019.

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Mr. Adifaka for the Police Prosecution.
Mr. Manebosa for the Accused.

BETWEEN:	REGINA	Complainant
AND:	NATHAN DAIWO	Accused/Defendant

SENTENCE

The Accused, Nathan Daiwo has been charged with a total of five charges. He appeared before this Court on the 4th of October 2019 and pleaded guilty to all five charges on arraignment. The offences were committed on three occasions this year.

The first two charges, which are 'simple larceny' and 'criminal trespass' arose out from the incident that occurred on 27th February 2019. The particulars of these two charges are as follows:

Count 1: Simple larceny

That Nathan Daiwo on the 27th February 2019, at around 12:00 pm, at Wind Valley area, Guadalcanal Province did steal 1 x Solar light bulb worth \$350, the property of Lance George.

Count 2: Criminal trespass.

That Nathan Daiwo on the 27th February 2019, at around 12:00 pm, at Wind Valley area, Guadalcanal Province did enter into property to wit a dwelling house in the possession of a person namely Lance George with intent to commit an offence.

The facts agreed are:

The defendant on the 27th February 2019 around 12:00 mid-day, went and broke into the house of another complainant namely Lance George at Wind Valley area in White River and stole from it a solar bulb worth \$250.00. This property was never recovered.

The second incident occurred on 27th April 2019 to which a single charge of 'threatening violence' contrary to section 89 (a) of the Penal Code was laid against the Accused. The particulars are as follows:

That Nathan Daiwo on the 27th April 2019, at around 0430hrs, at Tasahe B area, Guadalcanal Province with intent to intimidate a person namely Mathew Ramo did threaten to break a dwelling house.

The agreed facts of this offending are;

The defendant, Nathan Daiwo on the 27th of April 2019, around 4:30 am in the night, he came to the complainant's house at Tasahe B in West Honiara and said the following words to the effect "*bae mi kilim iufala, bae mi slaughterim everi pikinini bilong iu, bae mi kam outim haus bilong iufala en bae mi go talem oketa pipol bilong mi kam or hao iu laek fight*". This had caused fear to the complainant because the defendant was also under the influence of alcohol at the time.

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The third incident happened on the 4th of May 2019 from which he faced two counts of Common assaults, contrary to section 244 of the Penal Code. The particulars of the offences are;

Count 1: Common assault.

That Nathan Daiwo on the 4th May 2019 around 0400hrs, at Tasahe B area, Guadalcanal Province did unlawfully assault a person namely Masian Mae.

Count 2: Common assault.

That Nathan Daiwo on the 4th May 2019 around 0400hrs, at Tasahe B area, Guadalcanal Province did unlawfully assault a person namely Shanty Mae.

The agreed facts are as follows:

On 4th May 2019 around 4:00 am in the night, at Tasahe B area in West Honiara, the defendant assaulted the complainants, Masian Mae and Shanty Mae. This occurred after Mrs. Shanty Mae shouted at him when she saw him bending over into the front seat of her husband's cousin bother's car which was parked near their house. This angered the defendant and as a result he confronted Mrs. Mae and slapped the left side of her face and later kicked her right hand and her buttock which caused her pain. This alarmed her husband Mr. Masian Mae who came to assist his wife. However, during the course of trying to rescue his wife, the defendant kicked the right side of his ribs.

The offending by the defendant, as reflected in the charges, were committed against persons and properties. Persons who commit these kinds of offences are persons with selfish and careless attitudes and have no respect for others and their properties. Innocent people, living in communities in this country have rights to live and enjoy their lives, with whatever properties they own in their homes freely, without fear, intimidation and harm. The Court, has a duty to ensure that members the community are protected from this kind of unlawful behavior by the

defendant and other like-minded persons. Thus, deterrence both specific and general, is an important consideration in this case.

The offending, on the three occasions have elements of pre-planning as the defendant chose to go to the homes of some complainants or vicinity of their homes and committed the offences. Two of the incidences happened in the night, in the early hours of the mornings of those two days. This was a time when most people and some of the complainants in this case were believed to be in their beds. Thus, he had clearly disturbed the complainants, in particular, by what he did on 27th April 2019 and 4th May 2019.

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He was under the influence of alcohol when he committed the offence of threatening violence on 27th April 2019. In relation to the simple larceny, the facts indicate that the solar bulb was never recovered, resulting in a loss to the complainant.

Based on the aggravating factors identified as present in the respective offending or incidences and the facts, I agree with the starting points as suggested by the Prosecution. The appropriate starting points in my view are as follows:

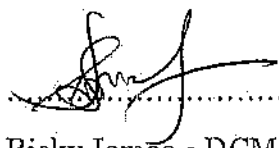
Simple larceny – 1 ½ years imprisonment
Criminal trespass – 2 months imprisonment
Threatening violence – 6 months imprisonment
Common assaults – 3 months imprisonment each

The sentences for Simple larceny and Criminal trespass are to run concurrently to each other and be consecutive to the sentence for the threatening violence offence. In relation to the Common assault charges, although there were two victims, they were committed as part of a single transaction in close proximity in terms of time. Therefore, they will be concurrent to each other. The total head sentence for the common assault charges will be consecutive to the total head sentence for the Simple larceny, Criminal trespass and threatening violence. The total head sentence for all charges is 27 months imprisonment.

In mitigation, I note that the defendant is a first time offender and a young man. He has pleaded guilty to the offences thus, credit is due for his pleas. To reflect these mitigating factors, I will deduct 6 months for his pleas of guilty and 3 months for the other mitigating factors from the head sentence above.

The total effective sentence to be served is 18 months imprisonment. The sentence is back dated to commence on when he was first remanded.

The Court,



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Ricky Iomea - DCM