



IN THE CENTRAL MAGISTRATES' COURT
OF SOLOMON ISLANDS

CRIMINAL JURISDICTION

CMC-CRC No. 562 of 2019 and 416 of 2020

REGINA

V

JIMMY RIKILONI

Date of sentencing submission: May 8, 2020
Date of sentencing judgment: May 11, 2020

Police Constable Pitana for Prosecutions.
The Accused in Person.

JUDGMENT

1. Mr Jimmy Rikiloni, you are charged with two counts. Simple larceny contrary to section 261 (1) of the *Penal Code* and Consumption of liquor in certain public place contrary to section 65 of the *Liquor Act*. You pleaded guilty to the two offences on 8th May 2020. I now enter your convictions for the two offences.
2. In the submission, Prosecutions stated aggravating factors for the offence as seriousness of offence, unrecovered property, previous conviction, planned theft, disregarding Police warning, and, disruption of market, Prosecutions also stated that deterrence must be considered. The case of *R v Rikiloni*¹ was cited and a copy handed up, it involved you as the offender was sentenced to 7 months imprisonment for simple larceny. Finally, Prosecutions asked that a custodial sentence be imposed.
3. You mitigated saying that you were sorry. Nothing more. When asked about capability of paying a fine, you stated that you will not be able to pay. And if any of your family could assist, you said they are not helpful and will not help.
4. The the maximum penalties of the offences are, simple larceny is 5 years imprisonment and drinking alcohol in certain public places is \$2,000 fine.
5. In the first offending, on 13th July 2019, you went into Wan Dao Shop at point Cruz. You picked up a black Jointer Speaker worth \$698 and gave it to a person by the

¹ [2015] 5BMC 2.

doorway of the shop. You were caught for the act and you admitted to have sold the speaker for \$300.

6. In the second offending, you and some other male persons, on 19th April 2020, were drinking kwaso at the Central Market area with four other male persons. A Police patrol team came by and warned you to leave. Police left and then return some moments later to find you at the same location continuing to drink kwaso. As a result you were apprehended.
7. From the facts, I agree with the Prosecutions for all the aggravating factors except for seriousness of offence. Seriousness of offence is dictated by its maximum penalty and its sentencing tariff cannot add to make the case more serious. Nevertheless, the aggravating factors are:
 - i. Unrecovered property. The Victim has been permanently deprived of his Speaker.
 - ii. Planned theft: Passing of things to another in the process of theft is a planned act to evade retrieval of property stolen. This is a planned theft.
 - iii. Disregarding Police warning. Police have warned but there is no respect in the warning and authority of the Police.
 - iv. Disrupting market: Market is a place where our city gets its revenue and where customers of all genders and age go to get goods. Drinking kwaso at a market disrupts the enjoyment of customers and sellers and also the revenue taking of the Provincial government.
 - v. Drinking Kwaso. Kwaso is an illegal drink.
8. For mitigation, I will consider your early guilty plea. You are very simple and could not express more than an apology. An apology which I noted to be consistent from the time of your admission when arrested by Police for the simple larceny offence. However, I could not come to terms with the fact that you re-offended with drinking alcohol in a public place. Nevertheless, you saved us from time, resources, and effort. I must award discount to your sentence I impose.
9. Obviously, a fine cannot be the sentence. This is because you are not capable or will not be able to pay the fine as you stated in court in mitigation. I have read the case law tendered to by the Prosecutions and agree with the prosecutions submission for custodial sentence. The reason being that the offendings are aggravated and your previous conviction is not impressive but taints you for a habitual offender. Your fine of previous conviction only shows that you are a seriously trapped in criminality.
10. I am not sure on how else deterrence from a lengthy custodial sentence will do you. It bothers me that you have gone in and out of prison, and is still committing offences. That does not take away the fact that I will factor deterrence.

11. Regardless of the negatives, I still goodness in you. I believe that you have a good side. It is only unfortunate that you cannot make it lead you.
12. I am bound by previous case laws and for consistency, I will have to sentence you accordingly.
13. After putting all the aggravating factors and mitigating facts, along with deterrence:
 - i. Simple larceny 8 months imprisonment.
 - ii. Drinking in certain public place 1 month imprisonment.
 - iii. The sentences is to run consecutive to each other because the offences are proximately in a distant (9 months) to each other and within different facts.

ORDERS OF THE COURT

14. Impose 9 months imprisonment.
15. Pre- detention period to be considered.
16. 14 days right of appeal

