

**IN THE CENTRAL MAGISTRATES' COURT
OF SOLOMON ISLANDS**

Criminal Jurisdiction

Criminal Case No. 1131 of 2018



PC Pitasua for the Prosecution
Ms. Pengalo for the Accused

BETWEEN: REGINA Complainant
AND: SAM KINGSLEY Accused

SENTENCE

The Accused Sam Kinsley is charged with one count of using abuse words contrary to section 178 (n) and section 22 of the Penal Code and one count of going armed in public contrary to section 83 and section 22 of the Penal Code.

The particulars of the charge of using abuse words are;

That Mr Kingsley Sam on 15th July 2018 between 1200hrs and 1300hrs in a public place namely Tanade village in the Isabel Province, together with Derick Sopamono and David Nohe, did use abusive words to wit *mifala outlaw ia, mifala nating wori long iufala chiefs, Police mifala no worim prison tu fuckem dadi and mami blong iufala* with intent to provoke a breach of the peace.

The particulars of the going armed in public are;

That Mr. Kingsley Sam on 15th July 2018 between 1200hrs and 1300hrs in a public place namely Tanade village in the Isabel Province, together with Derick Sopamono and David Nohe, did go armed in a public place without lawful occasion in a manner that caused fear to persons namely, chiefs Josiah Pone, Wilson Saro, Rolland Ellington, Daniel Manedika, Kenly Kis, Eddie Amale and Napa Sam.

The relevant facts agreed by the Defence and the Prosecution is that the accused and Sopamono had been drinking beers since Saturday 14th July 2018 at Tanade Logging camp. They finished drinking in the morning of Sunday 15th July 2018 and walked home to Tanade village.

When they arrived at their village at Tanade, the chiefs were having a meeting in the Community hall and because the two were playing loud music and making loud noises, the chiefs approached them and as a result, an argument ensued and the chiefs

assaulted the accused and co-accused Sopamono. As a result, the accused and Sopamono were angry and retaliated.

The accused, Sam Kingsley held a small axe in his hand to scare of the chiefs.

Those are the facts that constitute the offences.

The circumstances of this case is an example of the kind of unruly behavior that are normally displayed by mainly youth in most of our communities when alcohol consumption is abused. Most tend to play very loud music and making loud noises without considering and respecting other community members. This is what happened in this case.

The chiefs, as can be presumed from the facts, approached the accused and the co-accused to reprimand them for the unwanted disturbances caused however, an argument broke out and the accused and the co-accused retaliated.

This is a clear demonstration of lack of respect for the chiefs. The accused and other like-minded people must be reminded that the courts will not tolerate or allow such behavior in the villages or communities and persons found guilty by the courts will face consequences in the form of punishment.

I believe that the accused will learn from this experience and will avoid repeating such unlawful conduct in the future.

I note that the accused is a young person and is a first time offender. His plea of guilty has saved the court's time and resources. His plea is a demonstration of his willingness to accept responsibility for his conduct. There is no element of pre-planning in this case.

These are misdemeanor offences. The maximum penalty for the offence of using abusive words is 1,000 penalty units and there is no maximum penalty provided for the offence under section 83 of the Penal Code (going armed in public so the Court will resort to section 41 of the Penal Code as guide for the appropriate sentence to be imposed for that offence.

I understand that the two co-accused who were charged with the present accused had been dealt with at Buala during a magistrate's circuit held in the past and were sentenced to pay fines of \$200.00 each for the same offences. I am conscious of the need for consistency and parity in sentencing of co-defendants, however, the important consideration is that, the final sentence must one that is proper and just in the circumstances.

Having considered the facts, aggravating factors and the need for deterrence, and weighing them against the mitigating factors, I am of the view that the appropriate sentences to be imposed for the two offences the accused committed and convicted are;

Use of abusive words - \$200 fine

Going armed in public - \$200 fine

The total fine to be paid is \$400.00. In default twenty days imprisonment. The fine is payable by close of business on 21/08/20.

The Court,



Ricky Iomea - DCM

