

**IN THE SOLOMON ISLANDS MAGISTRATES' COURT**  
**AT HONIARA**  
**Criminal Case No. 552 of 2018**



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**REGINA**

**V**

**HYPOLITE TARAMAE**

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Before: Principal Magistrate Ms. Fatimah Me'ere Taeburi  
Ms. Dalcy Belapitu (DPP) for the Crown  
Mr. Sholto R. Manebosa (PSO) for the Defendant

Date of Hearing: 9<sup>th</sup> to 30<sup>th</sup> September 2019  
Date of Judgment: 5<sup>th</sup> August 2020  
Date of Sentence: 20<sup>th</sup> August 2020

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**SENTENCE**

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1. Mr. Hypolite Taramae was found guilty and convicted after a trial on one count of conversion contrary to section 278(1)(c)(i) of the Penal Code.<sup>1</sup>
2. He was the Honourable Member of Parliament for the Central Makira Constituency at the time when he committed the offence. He received a Solomon Islands Government cheque in the amount of Sixty Six Thousand One Hundred and Five Dollars Ninety Two Cents from the Ministry of Forestry and Research. The purpose of the payment was for reforestation development in the Central Makira Constituency and the intended beneficiaries of the funds are the tree farmers in the constituency. He fraudulently converted the use of the funds to his own benefit by depositing an amount of Sixty Six Thousand One Hundred and Five Dollars into his own personal bank account.
3. In sentencing Mr. Taramae, I consider the following factors;
4. That at the time when he committed the offence, he holds a very high position of trust and authority. As the Member of Parliament, he was elected by the

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<sup>1</sup> Section 278(1)(i)(c) of the Penal Code

people of the Central Makira Constituency as their representative in decision making. He was also the Minister to the Ministry of National Unity, Peace and Reconciliation. In his official capacity both as the elected Member of Parliament for Central Makira and as a Minister of the Crown, he was placed in a position where he can access government funds and other benefits to be delivered to the public and the people that he was supposed to serve. The high position means that he carries a significant responsibility to ensure that he deals honestly with the funds that are entrusted to him. In converting the use of the reforestation development funds, not only did he breach the trust and the confidence of the public, but he had also denied the tree growers in Central Makira, the benefits that they should have received. Even more, his actions have negatively impacted on the implementation of the reforestation scheme which was expected to enhance the environment, not only for good of Central Makira, but for the nation as a whole.

5. I find that the total amount converted being Sixty Six Thousand One Hundred and Five Dollars as a substantial amount of money.
6. He has not repaid any single cent of this money to the people of Central Makira.
7. I consider that he has no previous convictions. I consider the good services that he has rendered to the people and the government of Solomon Islands. I take into account his age and personal circumstances.
8. I must discuss the issue of delay in this case. The accused committed the offence on the 2<sup>nd</sup> of April 2014. He was initially charged by the police on the 12<sup>th</sup> of May 2018. He was bailed by the police on the same day to appear in court on the 4<sup>th</sup> of June 2018. The charges were however filed in court on the 5<sup>th</sup> of June 2018.
9. According to the court's records, the matter was first called in the Magistrate's Court on the 11<sup>th</sup> of June 2018. Mr. Taramae engaged Mr. Kesaka and disclosures were served on the 23<sup>rd</sup> of June 2018. On the 30<sup>th</sup> of June 2018, he was arraigned and he pleaded not guilty to the charges.
10. A number of adjournments were granted during the time to allow the prosecution to reassess their evidence and also for personal reasons of the counsels involved. A pre-trial conference was conducted and the trial dates were fixed on the 1<sup>st</sup> of November 2018. The trial was fixed from 1<sup>st</sup> to the 30<sup>th</sup> of April 2019. At the time, the diary of the court and the counsels were already booked for other court matters for the remainder of 2018 and the beginning of 2019. The only available dates for the trial were in April of 2019.

11. The trial did not occur in April of 2019 due to medical reasons of the prosecutor responsible. The prosecutor was available on the 18<sup>th</sup> of April 2019. At the time it was confirmed that only 1 ½ weeks was left in the time allocated to conduct the trial. Obviously the time left was not sufficient to complete the trial. Had the trial proceeded, it would mean that the evidence would have been part heard. On that day, the court made the decision to vacate the trial dates in April 2019. On the same new trial dates were fixed from the 2<sup>nd</sup> to the 30<sup>th</sup> of September 2019.
12. From the 2<sup>nd</sup> to the 4<sup>th</sup> of September 2019, all Magistrates at the Magistrate's Court attended a Magistrates Retreat Program. The trial was then adjourned to commence on the 4<sup>th</sup> of September 2019. The trial did not proceed on the 4<sup>th</sup> of September 2019 for medical reasons and court engagements of the defence counsel. The trial actually proceeded on the 9<sup>th</sup> of September 2019 by way of a *voir dire* on the admissibility of the record of interview between Mr. Taramae and the police. The evidence and submissions in the *voir dire* was completed on the same day. The ruling was delivered on the 10<sup>th</sup> of September 2019.
13. The trial proper commenced on the 11<sup>th</sup> of September 2019. Count 2 against the accused was reinstated and amended charges were filed on the 11<sup>th</sup> of September 2019. He pleaded not guilty to both charges on the same day and the trial proper proceeded. The prosecution's case was completed on the 27<sup>th</sup> of September 2019. The matter was then fixed to continue with the defence case on the 7<sup>th</sup> and 8<sup>th</sup> of November 2019. The defence case was completed as fixed.
14. Closing submissions were made on the 21<sup>st</sup> of November 2019. I and the counsels went on annual leave in December 2019. I resumed duties sometimes in January 2020. I was unable to deliver judgment in February and March of 2020 due to my engagements in other trials and court commitments.
15. In early April 2020 due to the COVID-19 situation, I was one of the Magistrates to go on forced leave.
16. The defendant did not attend court for sometimes during this period of time. A warrant was issued for him and the prosecutions were ordered to summon him to attend court. He appeared on the 4<sup>th</sup> of August 2020.
17. The court delivered judgement on the 5<sup>th</sup> of August 2020. His case has been listed for sentencing submissions on two occasions. On the 12<sup>th</sup> of August 2020, the crown made submissions and the matter adjourned to today for sentence.
18. I note that throughout the proceedings, the defendant has obediently abided by his bail conditions and has faithfully attended court. From the court's records, he started to skip court appearances in March this year. I take judicial notice of the fact that it was during this time that the threats in respect of the world

wide COVID-19 pandemic was at its highest. I also take judicial notice of the fact that around March this year, a state of public emergency was declared. It was also around the same time that the government made undertakings to repatriate people to their provinces of origin.

19. I therefore do not think that it is fair to blame the delay caused during that time on either the accused or the prosecution or the court. The threats and the fear felt at that time were beyond anyone's control.
20. From May to August 2020, the defendant was not arrested on the warrant issued on the 27<sup>th</sup> of March 2020 nor was he summoned to attend court. He appeared in court on the 4<sup>th</sup> of August 2020 voluntarily.
21. Based on this chronology of events and my analysis, I find that the accused was not responsible for the delays in progressing the matter. It took the police 4 years to charge him for the offence he committed. There were no explanations provided from the prosecution on the delay to charge Mr. Taramae. The court proceedings were delayed for another 2 years. The delay is substantial in my view and none of it was caused by Mr. Taramae. The fact of delay must be considered his favour.
22. The maximum penalty for conversion is 7 years imprisonment.<sup>2</sup>
23. I have considered the sentences passed in the case of *Dausabea v Regina*<sup>3</sup> and the case of *Una v Regina*<sup>4</sup>. The courts have imposed sentences of 18 months imprisonment.
24. In this case I am satisfied that the appropriate sentence is 18 months imprisonment. I take into account the fact of delay and suspend one year of the sentence. Mr. Taramae is to serve **6 months in prison.**
25. Right to appeal within 14 days.



Dated this 20<sup>th</sup> day of August 2020

<sup>2</sup> Refer to footnotes No.1

<sup>3</sup> *Dausabea v Regina* [2009] SBICA 11; CA-CRAC 20 of 2008 (26 March 2009)

<sup>4</sup> *Una v Regina* [2007] SBHC 17; HCSI-CRC 402 of 2006 (24 April 2007)