

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

Criminal Jurisdiction

Criminal Case No. 934 of 2020

On the 5<sup>th</sup> day of October 2020

Ms. Mae'ue Ethel for Police Prosecution  
Accused in Person.

**BETWEEN: REGINA Complainant**

**AND: JOHN DAGUAI Accused**

**SENTENCE**

Mr. Daguai this afternoon you appear for the Court to impose sentence on you after you pleaded guilty to breaching restrictions on making liquor contrary to section 50 (2) (b) of the Liquor Act. You did without the lawful approval of the responsible Minister, have on your premises and in your possession, utensils used for brewing or distilling liquor.

On 13<sup>th</sup> August 2020, at around 1130hrs Police from the Central Police station, including the liquor squad of Central Response Unit and Shift Bravo mounted an operation called Target 02 2020 and raided the Karaina Settlement at White River. This operation was done because of complaints of disturbances at the community. During the course of the raid and search the Police went to your house and searched the house. At the time you were making an axe handle in your small kitchen house.

The Police found the following items;

- 2 x Black Jerry cane 20 litres containing pure homebrew,
- 2 x White jerry cane 20 litres containing pure homebrew,
- 1 x Black Mobil bucket 18 litres containing pure homebrew.

Police collected the items and escorted you to the Central Police Station. You were placed in the Central Police Station cell. The next day you were released and took part in an interview in which you admitted having in your premises and possession the above utensils for brewing of homebrew.

You told the Court when the Court asked you whether you wish to say something for the Court to consider when deciding the sentence against you that you were sorry and that you did wahta

you did to earn money to pay for school fees. You also told the Police during your interview the same reason.

I believe you were aware or now realizes that to have on one's premises or in one's possession utensils for brewing of liquor when there is no written approval by the Minister responsible is a crime under section 50 (2) (b) of the Liquor Act.

Whilst parents, guardians and in this case you, have the obligation to ensure that your children, grandchildren or other members of your family continue to receive education in schools by paying for their schools fees, one must not resort to breaking the law as a means of earning an income to fulfil genuine purposes or needs. Despite of whatever situation that one finds himself in, there are always other lawful means of earning an income. This is why, although your reason for engaging in illegal brewing of liquor was to fulfill a genuine obligation, it cannot justify what you did. The same view was expressed by Palmer CJ in *Alick Sisione & Zacchariah Avelea v R and Frank Laubasi v R*<sup>1</sup>, he said;

*"Financial pressures or burdens on the family have always been given as the basis for engaging in such illegal activities. While the Court acknowledges that that is a real problem for many families in the country, that is no excuse for breaking the law. Each and every man and woman must find ways of getting involved in lawful ways of earning income or making money. In many instances it will entail hard work, sweat and sometimes tears, but that is the plight of man, that by the sweat of his brow he will make his living".*

The aim of criminalising or making it unlawful to have on one's premises or possession utensils for brewing liquor, when there is no written approval by the responsible Minister, is to stop illegal brewing of liquor in our communities. Consumption of homebrew in the communities is believed to be one of the main causes of many anti-social behavior in the communities.

When persons who are charged for breaching this law are brought before the courts and found guilty, the Court has a duty to impose a sentence that will not only serve as a punishment but that sentence must also serve as a way of discouraging or deterring the offender and members of the general public who are currently engaging in such conduct or are intending of engaging in such conduct in the future.

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<sup>1</sup> [2004] SBHC 69; HC-CRAC 385 & 394 of 2004 (1 September 2004)

The increasing of the maximum monetary penalty from 1,200 (\$1,200) penalty units to 30,000 (\$30,000) penalty units<sup>2</sup> clearly reflects the view of Parliament that this type of offending is serious.

I note that you are now 63 years old, a matured married man with 6 children. I was informed by the Prosecutor that this is your first time to be on the wrong side of the law. You are a first time offender.

Having taken into account the facts of the case, the seriousness of the offence, the need for deterrence and balancing those with the defendant's personal and family circumstances, the Court is of the view that the imposition of a fine is appropriate.


Sentence orders:

For this offence of Possession of implement or utensils for distilling liquor contrary to section 50 (2) (b) of the Liquor Act, a fine of \$3,000.00 is imposed. In default, six months imprisonment.

Payable by close of business (4:30 pm) on 9<sup>th</sup> October 2020.

The equipment or utensils confiscated by the Police during the raid are now forfeited to the State (RSIPF) and be destroyed.

THE COURT



Ricky Iomea - Deputy Chief Magistrate

<sup>2</sup> As per Penalties Miscellaneous Amendment Act 2009, No. 14 of 2009