

IN THE SOLOMON ISLANDS MAGISTRATES' COURT
AT HONIARA
Criminal Case No. 1063 of 2019



REGINA

V

TONY KELESI
LIONEL FAFALE KELESI
BEN KERRY KELESI

Before: Principal Magistrate Ms. Fatimah Me'ere Taeburi
Sergeant Palmer and PC Tepakota for the Crown
Mr. Rodney Manebosa (PSO) for Tony Kelesi
Mr. Bobby Harunari (PSO) for Lionel Fafale Kelesi and Ben Kerry Kelesi

Date of Hearing: 1st September to 1st December 2020

Date of Sentence: 10th December 2020

SENTENCE

1. The three convicts were found guilty after a trial on one count each of intimidation contrary to section 231(1) of the Penal Code. They are now here to be sentenced by this court.
2. In sentencing them I take into account the following factors;
3. They were armed with dangerous weapons. Tony Kelesi was armed with an axe. Lionel Fafale Kelesi was armed with a bush knife. Ben Kerry Kelesi was armed with an iron pinch bar.
4. I consider that they acted in a group. They advanced towards the complainant in an aggressive manner. I can only imagine the fear felt by the victims. The complainant's wife said that she ran away and hide when the convicts appeared with weapons. Other witnesses also expressed the same fear felt at the time. The complainant and his wife left their house at Green Valley and never returned

after the incident. I consider the fear felt by the victims, the effects on their lives after the experience and the loss suffered by the complainant and his family.

5. I take into account that the incident happened within a domestic setting amongst family members. The convicts are the nephews of the complainant. I accept that every family do have their arguments. However within a family setting, disputes should be resolved with more understanding, compassion and acceptance. I was informed that unfortunately there has been no reconciliation in this case.
6. I consider that the convicts are very young persons. They are all first time offenders. They all have very bright future in my view. Mr. Tony Kelesi is a professional body builder. Mr. Lionel Fafale is a carpenter by passion. Mr. Ben Kelesi is a local farmer. In my view, every person deserves a second chance and that rehabilitation must be considered in any punishment imposed especially with young offenders.
7. The maximum penalty for intimidation is 3 years imprisonment. I agree with the defence counsels that the threats in this case are not as serious compared to other previous cases of intimidation. I also agree with counsels that the convicts were held back some metres away from the complainant. Therefore the threats caused in this case are not as direct and life threatening compared to other cases.
8. In my view, an imprisonment sentence is not appropriate in the circumstances.
9. I sentence the convicts as follows;
10. Lionel Fafale and Ben Kerry Kelesi are sentenced as follows;
 - a) Fine to be paid to the state in the sum of \$2000 each within 14 days from today;
 - b) In default imprisonment for 3 months for each convict;
 - c) Bound over to be of good behaviour for 1 year in own recognisance and sum of \$300;
 - d) Reconciliation with the complainant within 28 days from today;
 - e) Compensation to the complainant within 28 days from today and in the Malaita custom to be agreed upon by the parties;
11. Mr. Tony Kelesi is sentenced as follows;
 - a) Bound over to be of good behaviour for 1 year in own recognisance and sum of \$300;
 - b) Reconciliation with the complainant within 28 days from today;
 - c) Compensation to the complainant within 28 days from today and in the Malaita custom to be agreed upon by the parties;

d) He is to be released at the rising of the court;

12. Right to appeal within 14 days.

Dated this 10th day of December 2020



Ms. Fatimah Me'ere Faeburi
Principal Magistrate