

Prosecutor

IN THE CENTRAL MAGISTRATES COURT
IN THE SOLOMON ISLANDS
CRIMINAL JURISDICTION



Criminal Case No. 226 of 2020

BETWEEN: HONIARA CITY COUNCIL

v

AND: FREDRICK FONO

Before: Emily Z Vagibule

Prosecution: Ambrose Motui

Defence: Appear in person

Date of hearing: 9th of February 2020

Date of sentence: 9th of February 2020

SENTENCE

1. Mr Fredrick Fono, you have entered a guilty plea for the count of failure to comply with business license conditions.
2. From the facts before me, I see that you are the owner of a public bus that bears the registration number; MB-3991. On the 20th of February 2020, the bus you own was found to have operated on a short bus route. As the bus owner and business licensee, you were arrested and charged.
3. The maximum penalty for such offending, is \$5000.00¹. All individuals present in this court room, is well aware of the issue regarding short bus routes here in Honiara.
4. Many are affected and have been affected. This will continue until responsible authorities such as the Honiara City Council acknowledges the need to address this issue with better and effective solutions. While I acknowledge the many reforms that they are working on, I see that they still fail miserably when it comes to short bus routes. I say this because as I am delivering this sentence, buses are still doing the very thing you were arrested for. There needs to be consistency in bringing offenders to court.
5. Mr Fono, the purpose behind operating public transportation, is to provide services to human beings, and not sticks or stones. Give them the service they deserve. As a business operator, you need to set a

¹ Section 8(1) (a) of the Honiara City Council (Regulation of Business License) Ordinance 2011.

balance between the need to provide better services and the need to obtain an income.

6. I acknowledge the explanations you gave earlier and hope that this is the first and the last time for you to appear in court for the offending at hand. Note the importance of telling your employees that every time they run on shot bus routes, you will be the one who will take the blame and not them.

7. This morning I will consider the following:

- Your early guilty plea;
- Remorse;
- First time offender;
- Waiving your right to be represented by a lawyer; and
- Personal circumstances.

8. Further to that, I will also consider the fact that you have breached a condition that you are well aware, of considering the fact that you have been in the public transportation sector for over a year now.

9. The level of culpability in such cases is quite hard to access, however. Until and unless the Ordinance is reviewed to allow the persons directly involved in this offending to be punished, you will always take the blame.

10. A message of personal deterrence needs to be send specifically to you. From this, I hope the general public might be able to learn a thing or two.

11. In terms of sentence, the only sentence identified by the Ordinance at breach is that of a fine. However, the court still has the discretion to impose any sentence which it deems appropriate, taking into consideration the circumstances involved.

12. In their sentencing submissions, Prosecutions has suggested that the appropriate sentence to impose is one of a fine. This is purposely to send out a message of deterrence to you on a personal level. In terms of personal deterrence, whatever fine I will impose should allow you as a business licensee to be cautious about how your business is ran and the expenses you will incur should you encounter this again in the near future.

13. Having considered the entirety of this matter, I will now consider a sentence of fine. With this, the calculation taken in this regards is as follows:

Max: 5000 penalty units (\$)

Starting point of- \$4500 minus \$2500 [mitigation factors]

=\$2000 plus \$2000 [aggravating factors]

=\$4000.00

14. With the above calculation now, I now order as follows:

ORDER

- (i) That Mr Sam Au is sentenced to a fine of \$4000.00 which is due by the 12th of February 2020;
- (ii) In default of payment, 6 months' imprisonment; and
- (iii) Right of appeal applies.

Dated this 9th day of February 2020.



THE COURT

MAGISTRATE EMILY Z VAGIBULE