

IN THE CENTRAL MAGISTRATES' COURT  
OF SOLOMON ISLANDS

CRIMINAL JURISDICTION

CMC-CRC No. 406 of 2018

REGINA

V

FRANCIS LINO



Date of Sentence Submissions: February 7, 2020

Date of Sentence: February 11, 2020

*Constable Akwai for Prosecution*

*Mr Kwalai for the Defence*

**SENTENCE**

1. You pleaded guilty to two counts of common assault contrary to section 244 of the Penal Code. Consequential to your guilty pleas, I convict you accordingly.
2. The maximum penalty of common assault is one year imprisonment. This is not serious compared to felony matters but one year denotes a long period in custody whereby it takes away ones liberty and is considered not in the best interest of ones welfare and wellbeing.
3. The facts to your offending was that on 2<sup>nd</sup> March 2018, Mr Ben Safusi received information that you damaged some property belonging to Jupiter School. He was the Chairman of that school. He then went to April Valley to confirm the news and met you. He approached you and asked you why you damaged the school property. However, you punched his face with your right hand and he almost fell down but gained his balance and ran to his house. You chased after him. He reached his house and you still behind and met Mrs Noelyn Safusi, Mr Ben Safusi's wife. You asked where Mr Ben Safusi was and she said she did not know. You then said "**u wat kaen woman nao u smat tumas ya**" and pushed her. She moved aback from the force. You then called out that you will be enemy with the two victims for life.
4. I also must add to the facts that you had grievance with the school management as the land which the school was built on. The grievance was you claimed some interest on the land as given to you as part of the Government resettlement program of the victims of the April flood in 2015. I must also qualify this as there was no objection from the Prosecutions about this fact raised by defence.

5. Further, I noted that you have reconciled with the victims. A shell money and a cash of \$1,000 was given as compensation to the Victims.
6. Striking two victims in close proximity of time to each other is serious. You victimised two people. The other was a woman who did not do anything to you except to say that she did not see where the first victim was. That woman did not provoke you. Yet you told her she was trying to outsmart you. The first victim approached you and did not provoke you. He was there to ask you why you did it. Instead of answering him, you proceeded immediately to punch him. The first victim approached you to solve a problem as what we should do. And not to ask you for a fight but you blew out of order.
7. In the contrary, for mitigation, an early guilty plea will mostly, in many cases, reduce a sentence. This is the position in *Qoloni v R<sup>1</sup>*. It has become widely applied by courts whereby sentences would be reduced by a third. A guilty plea must be associated by true remorse and not just a reckless plea to escape part of the sentence. I have observed you and you appeared remorseful and have accepted the wrong you have done. I will give you the full benefit of a guilty plea. Not only that, you saved the court and parties, unnecessary waste of time, resources and effort.
8. You have reconciled with the Victims. I take it that the Victims were appeased and accepted the wrong you done to them. You have also paid them compensation of a shell money and \$1,000. You have taken steps to reform yourself to correcting the wrong and it only reflects that you have rehabilitated and will become a better person. You are a first time offender. Sentence should be lower compare to second time offenders. Also you have served about a month in custody. That is time served already.
9. After considering submissions by your lawyer and Prosecutions, it is my view that a short and sharp sentence is appropriate. You served a month in custody. You paid compensation of a red money and \$1,000 to the victims. The Victims are appeased and today you live well with the victims. Most part of the sentence is served. This was achieved when you have taken steps to pay the compensation and served time in custody. You have learnt and will become a better person.
10. However, deterrence must be factored in the sentence. Personal and General deterrence that the court frowns on such offending. Especially when this offending is prevalent in the community. Therefore, I will impose a bound over. The sentence to run concurrent. When I am finished with my orders, please take this as a very lenient sentence that you should not come back to the courts for any other offending. Learn and act accordingly by the law.

## ORDERS

11. Impose a sentence of 6 months bound over in the amount of \$500.
12. 14 days to appeal is available to any aggrieved party.

---

<sup>1</sup>[2005] SBHC 73.

13. Order accordingly.



THE COURT

Ishmael Kekou – Magistrate First Class