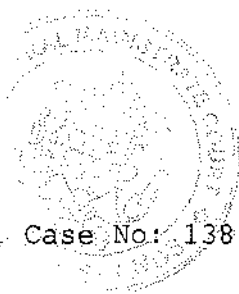


Court



IN THE CENTRAL MAGISTRATES COURT  
IN THE SOLOMON ISLANDS

Criminal Case No: 138 of 2020

In the Criminal Jurisdiction

**BETWEEN: HONIARA CITY COUNCIL**  
**AND: REGINALD KIRIWAI**

Before: Emily Z Vagibule

Ambrose Motui for HCC

Defendant self-represented

Date of hearing: 20<sup>th</sup> of February 2020

Date of sentence: 26<sup>th</sup> of February 2020

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**SENTENCE**

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1. Mr Kiriwai, you pleaded guilty to one count of hawking in a public place without a hawkers license and one count of littering in a public place.
2. Sentencing submissions were done on the 20<sup>th</sup> of February 2020 and the matter was further adjourned for the court to deliver its sentence.
3. Both counts carry maximum penalties of \$1000 each. In other words, this should be a warning to those intending to engage in street selling. I also believe that the maximum penalty for littering in a public place is put in place to help us develop a habit of keeping our public places clean and tidy.
4. From the facts before me, you were unlawfully displaying for sale to the general public the following items:
  - (i) Sixteen fruit betel nuts which was priced at \$4.00 each;
  - (ii) Sixteen fruit leaves which was priced at \$1.00 each;
  - (iii) Nine youki cigarettes which was priced at \$2.00 each; and
  - (iv) Fourteen Pall Mall cigarettes which was priced at \$2.50 each.
5. This case is not the first of its kind. Already I have dealt with over a hundred cases that are similar to the one at hand. Regardless of the sentences imposed on previous offenders, the message of general deterrence is not effective at all. Since Honiara is smaller in size compared to other cities in the world, I expect people to spread the sentences imposed on them by the court when they were handled for HCC matters.

6. The reason why people are not respecting HCC ordinance could be due to how some officers within the law enforcement are carrying out their duties.
7. If there is no discipline within the law enforcement unit itself, then there will also be a negative effect on the HCC ordinances that are being breached.
8. I wish to stress the importance of complying with existing laws, regulations and ordinances even if everyone else is not. Most of those arrested for the offence of hawking without a hawkers license and littering in a public place are fully grown and matured adults. Instead of living a life of example to our younger generations, they are the ones who are ignorant of the law.
9. This afternoon, I will consider your early guilty pleas, the fact that you are a first time offender and the fact that you are unrepresented. On the other hand, I will also consider the fact that you have broken two HCC ordinances. The seriousness involved is already reflected through the maximum penalties of each offending. I will also consider that as a matured person, you failed to conduct yourself in a way that reflects the matured person you are. I also note that you have served as a Police officer. The fact that you are no longer working as a police officer does not mean you should no longer uphold the existence of our laws, regulations and ordinances. Your actions should never be justified through your personal circumstances.

10. There are multiple ways that one can engage in to earn an income, selling betel nuts and causing people to litter within our public places is not one of them.
11. From the facts before me and the circumstances involved, I am of the view that a sentence of fine should be considered.
12. As stated earlier, both counts carry a maximum penalty of \$1000. I will now consider the following calculations:
13. **Count 1 Range: 200 to 500**  
**Starting Point of: 250 minus 180 (mitigating factors)**  
**= \$70 plus \$100 (aggravating factors)**  
**= \$\$170**
14. *Count 2* ~~Count 2~~ **Range: 200 to 500**  
**Starting Point of: 250 minus 180 (mitigating factors)**  
**= \$70 plus \$100 (aggravating factors)**  
**= \$\$170**
15. Thus having weighed the entirety of this matter, I now order that you be sentenced as follows:

**Order**

- (i) Count one a fine of \$170;
- (ii) Count two a fine of \$170;
- (iii) Total fine of \$340 which is due by the 28<sup>th</sup> of February 2020;
- (iv) In default, 20 days imprisonment.
- (v) Right of appeal applies.

Dated this 26<sup>th</sup> day of February 2020.



THE COURT

EMILY Z VAGIBULE-MAGISTRATE