



**IN THE CENTRAL MAGISTRATES COURT OF SOLOMON ISLANDS  
AT HONIARA**

(Criminal Jurisdiction)

Criminal Case No: 1059 OF 2019

**REGINA**

-V-

**LUDWICK TAMANAOA MATAKI**

Coram: HOLLISON F (PRINCIPAL MAGISTRATE)

*Appearances:*

*Mrs Ethel Maue for the Crown (Police Prosecutions)*

The Defendant appeared in person

Date of Mitigation: 27<sup>th</sup> February 2020

Date of Sentence: 27<sup>th</sup> February 2020

Notice: *This copy of the Court's Reasons for Judgment is subject to formal revision prior to publication.*

**SENTENCE**

**INTRODUCTION**

1. The Defendant Mr Ludwick Tamanaoa Mataki was charged with one count of Malicious Damage contrary to section 326(1) of the *Penal Code* [Cap 26].
2. The defendant was asked whether he wanted to be legally represented as he is entitled to this under the *Constitution*, and he said that he would represent himself.<sup>1</sup>
3. He pleaded guilty to the said charge this morning.
4. The facts were read to him and he agreed with the summary of facts.

**FACTS:**

5. The relevant facts can be summarized as follows. The incident occurred in front of the shops at White River in west Honiara on Guadalcanal in November 2019. The complainant is Mr Eddie Beku, an adult person and a native of Guadalcanal.

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<sup>1</sup> *Constitution of Solomon Islands 1978*, s10(2)(d)

6. On the 24<sup>th</sup> November 2019 at around 8am, the complainant was assisting a woman by the name of Ms Vivian on board a private vehicle Registration Number MC2976 from Kakabona area and they proceeded to the White River bus stop known as 01 to purchase cargoes from the shops there for their canteen.
7. Upon their arrival at the shops in White River, Ms Vivian went into the shops to do her shopping whilst the complainant was chewing betel nut at one of the vendor's betel nut stalls beside the road.
8. The defendant who was heavily intoxicated at the time approached the complainant and asked him to take him to Namoruka to pay for the locally brewed alcohol known as *Kwaso*. The complainant answered in the negative.
9. The defendant got angry and said "*you no anykaen, bae me breakem nao car blo iu ya*" and he hit the front wind screen by using his right hand with a closed fist. As a result, the front wind screen sustained a damage which was a crack.
10. The total cost for the repair is SBD 2,140.00.
11. The matter was reported to the White River Police Station and defendant was subsequently charged with the present charge.

### DISCUSSION AND ANALYSIS

12. Section 326(1) of the *Penal Code* [Cap 26]<sup>2</sup> provides that:

*Any person who willfully and unlawfully destroys or damages any property is guilty of an offence, which, unless otherwise stated, is a misdemeanor, and he shall be liable, if no other punishment is provided, to imprisonment of two years.*

13. The maximum sentence of 2 years imprisonment indicated that the offence is a serious offence.

14. The aggravating features are as follows:

1. The offence carries a maximum sentence of two years.
2. The front wind screen got a crack as a result of the hit by the defendant.
3. The value of the damage is SBD 2,140. This amount could be small but for ordinary Solomon Islanders it is a big amount of money. Hence, this is a loss for the complainant as he had to pay using his own money for the repair.
4. The defendant was intoxicated during the commission of the offence and it occurred in a public setting where people were around.

15. The mitigating factors are as follows:

- 1) Early guilty plea. The defendant entered an early guilty plea which shows that he is remorseful and accepted that he was wrong.
- 2) He is unrepresented in court and I take this into account.
- 3) He is 22 years of age and he has a high chance of rehabilitation.

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<sup>2</sup> *Penal Code* [Cap 26], s.326(1)

- 4) He apologized to the court which shows genuine remorse. He said he was too drunk and he could not make a proper judgment when he committed the offence. However, he promised the court that he would not repeat the offence again.

### SENTENCING TARIFF:

16. In *Regina-v-Goro* [2016] SBMC 24; Criminal Case 1277 of 2015 (15 September 2016)<sup>3</sup>, the offender pleaded guilty to a number of offences including two counts of malicious damage contrary to section 326(1) of the Penal Code. He was sentenced for 5 months imprisonment each for the malicious damage. The offender in the *Goro case* actually damaged the verandah and the walling of the victim's house.<sup>4</sup>
17. In the case *R-v-Junior* [2016] SBMC 23; Criminal Case No 1277 of 2015<sup>5</sup>; the defendant was charged with a number of offences including malicious damage. The offender, *inter alia*, damaged three bulbs, and he was sentenced to 5 months imprisonment. The total sentence was higher because the sentence was combined with other serious offences.
18. The damage done in the present case is not as serious as the case of *Regina-v-Goro* [2016] SBMC 24 and *R-v-Junior* [2016] SBMC 23 that were cited above. Hence, the sentence for this present case should be lower than the said cases.
19. In summary, a sentence depends very much on the magnitude of the damage done to a property. In the past, malicious damage cases have attracted penalty fines, bound-over sentences, and custodial sentences ranging from a few months up to 18 months imprisonment.<sup>6</sup>
20. After having considered both the aggravating and the mitigating factors, I am satisfied that a custodial sentence is appropriate for this present case.
21. Hence, I am of the view that a starting point of 12 months is appropriate for this present case.
22. **Early Guilty plea.** I note his early guilty plea and I deduct 4 months.
23. He is unrepresented in court and I deduct 1 month to reflect this.
24. **Rehabilitation.** He is relatively young with 22 years of age and has a high chance of rehabilitation. I deduct 2 months to reflect this.

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<sup>3</sup> *Regina-v-Goro* [2016] SBMC 24; Criminal Case 1277 of 2015 (15 September 2016),

<sup>4</sup> The Court in that case imposed a sentence of 2 years and 2 months which included other offences combined with the malicious damage.

<sup>5</sup> *R-v-Junior* [2016] SBMC 23; Criminal Case No 1277 of 2015

<sup>6</sup> *Ghele v Reginam* [2004] SBHC 38; HC-CRAC 169 of 2004 (6 May 2004)

25. *Genuine Remorse*. He sincerely apologized to the court and promised not to reoffend again in the future and I give him a month of deduction.
26. *Pre-Sentence Custody*. This must be taken into account as well.
27. Hence, it is my considered view that a sentence of four (4) months imprisonment is appropriate for this present case.

## CONCLUSION

28. The right to protection of property is a constitutional right entrenched in the constitution. This means that, apart from any lawful process permitted by the law or the courts, there is no justification for a person to destroy another person's property.
29. The defendant is not a first time offender and it shows that he never really learned from the fine imposed on him previously in another case in which he defaulted in payment and as a result he served some time at Rove CSSI<sup>7</sup> Correctional facility in Honiara. I understand that being locked up at the correctional facility is not a pleasant experience and his previous incarceration would have had a positive effect on him but that is not the case here.
30. He admitted in court that he has a drinking problem and that whenever he is intoxicated there is a likelihood that he may commit an offence. He knew the problem of taking alcohol but he continued to drink alcohol as shown in this case and this is pure ignorance on his part.
31. As a young man, he should reflect on his past mistakes and transform his life for the better, and to make his parents proud. It shows from the facts that his dad recommended the victim to report the matter to the Police.<sup>8</sup> This could be an indication that his dad has had enough of his son's attitude and commencing a criminal case would teach his son a lesson.
32. In view of the above, I hope that a short and sharp sentence would teach Mr Mataki a lesson not to commit such offences or any other crimes again in the future.
33. On that note, I now sentence the offender Mr Ludwick Tamanaoa Mataki to four (4) months imprisonment.
34. This sentence should also send a message of general deterrence to the members of the public.

## ORDERS

35. The orders of the court are as follows:

[1] The offender Mr Ludwick Tamanaoa Mataki is sentenced to four (4) months imprisonment.

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<sup>7</sup> Correctional Services of Solomon Islands.

<sup>8</sup> The defendant's dad is a Police officer with the rank of Inspector within the Royal Solomon Islands Police Force.

- [2] The sentence shall be backdated the date that he was first remanded.
- [3] Right of Appeal within 14 days.



**PRINCIPAL MAGISTRATE FELIX HOLLISON**  
**THE COURT**