

IN THE CENTRAL MAGISTRATES COURT)
OF SOLOMON ISLANDS AT HONIARA)
(Criminal Jurisdiction)



Criminal Case No: 53/2020

REGINA

-V-

LESTER MARTIN WANEBENI

SENTENCING DECISION

Prosecutor: Mr. Pitasua from the Police Prosecutions Department

Defence counsel: Mr. Weago of the Public Solicitors Office for the Defendant.

Plea: 17th Feb 2020

Oral Ruling: Fri 28th Feb 2020

Written Ruling: Fri 28th Feb 2020

BACKGROUND:

This is a domestic violence matter between 2 brothers. The Defendant is Mr. Wanebeni. The charge is that of psychological abuse found under section 4 (1) © of the Family Protection Act (FPA) and read with section 58 of the same legislation. He Pleaded Guilty to the charge on 17th Feb 2020 and was convicted on it.

Parties filed sentencing submissions and agreed facts on 21st Feb 2020.

The facts as agreed to displays in summary that the 2 brothers (who are the defendant and the victim in this case) had disagreements over family money which the victim was in custody of. The defendant was not happy with how it was handled by his older brother and therefore he uttered the words which caused psychological abuse on the victim

who is his brother. He effectively threatened him and warned him that he has a gun which he kept and will kill someone with it.

I have read through the filed facts and heard from parties in court during sentencing submissions session. I also received oral submissions by defence on the date of sentencing the defendant. He orally submitted that the defendant (his client) confirmed paying red money worth about \$1000 to the victim in the case to express his apology.

In analysing the appropriate sentence to impose, I noted the following as the:

1. Aggravating features:

- a. Alcohol consumption during the incident.
- b. Disrespectful manner of displaying anger and issues between brothers. Remember children watch and learn. Therefore to act in such manner shows and teaches younger generation of how to handle situation which is serious and wrong to do.

2. Mitigating features:

- a. Early guilty plea. Shows remorse and rehabilitative pursuit of the defendant to acknowledge his wrongs and try and change.
- b. Cooperation with police makes it a smooth running work for police who are law enforcers working to ensure people behave accordingly in the community. Saves resources as they may have found it hard to catch him and use public funds and resources to do that.
- c. Reconciliation between them as brothers. The victim accepted the shaking hands and prayer and are now in good terms.
- d. Provoked attack on the victim who withheld monies he should have been entitled to as well. This deprived him from his property as well and affected him negatively.

3. Personal circumstances

- a. Married with 3 children who are 4 years of age and twins who are about 1 year old now.
- b. He is a builder and does this for living and helping his family.
- c. He has previous convictions but are about 9 years ago offences. They are violent in nature and more serious in my view. However the time span from then to now will make it for me to view him more of a first time offender.

Analysis:

Domestic violence is a serious kind of offence for our country. This is what enabled the Government through its different institutions to work on having the legislation put in place. I therefore have to reiterate this same sentiment which is the spirit of the legislation but must be mindful in ensuring that the penalty imposed is suitable and appropriate for the circumstances of the offending.

Therefore in going through his case, I note that deterrence is important. General and specific deterrence is applied. This is to keep sending the message to the public of the need to stop from doing these kinds of behaviour. This is also to specifically deter him to never repeat this kind of offence and change from it. Rehabilitation principle is also vital as the Defendant has changed and is sorry for doing what he did to his older brother. This is confirmed through the mitigating factors present in his case and especially in giving red money when his brother has stated he does not need that payment. I also consider all factors of aggravation, mitigation and personal circumstances and scale this as not a very serious kind of this offence. Therefore imprisonment is not proper in my view but a bound over would be better to ensure he keeps rehabilitated through his own means as he has shown this through his counsels submissions already. This will also remind him not to get in trouble with the law again.

Court order

1. Bound over is suitable for 6 months so he can maintain peace in the community and be of good behaviour on his own recognisance in the amount of \$400.
2. Right of appeal within 14 days from today.



Beneteti

Tearo R. Beneteti
Principal Magistrate