

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

[Criminal Jurisdiction]

Criminal Case No. 797 of 2019

REGINA

Complainant

-v-

JOSEPH SOLOWARA

Defendant

*Before: Clifton M. Ruele-Principal Magistrate
Mr Bobby Harunari the Defendant
Mr Florence Hiroshachi for the Prosecution*

*Date of sentencing hearing: 26th February 2020
Date of sentence: 28th February 2020*

SENTENCE

Introduction:

1. The Defendant Mr Joseph Solowara pleaded guilty to a charge of Malicious Damage contrary to section 326 (1) of the *Penal Code* [Cap 26].¹

¹ Refer to the charge filed with the court on 13th September 2019

Agreed facts:

2. The Defendant Mr Joseph Solowara from Dala village, West Kwara'ae Malaita Province.
3. The Complainant is Mr Ken Chen from Guang Dong province in China.
4. The complainant employed the defendant as his casual worker.
5. On the 26th August 2019, the Complainant was at his shop when the defendant approached the complainant and asked the complainant if there is any other casual work available. The complainant however replied in an angry tone saying that there is no job available for Casual work and told the defendant to check later on Wednesday or Thursday.
6. Upon hearing the response from the complainant, the defendant became angry and damage the 3 ton truck's wind screen and left-side door glass.
7. The value of the property is \$3,0000,00.

Max Penalty:

8. The maximum penalty for the offence of malicious damage is 2 years imprisonment. However, the maximum penalty is reserved for the worst offending and each case that come before the courts should be assess individually according to its own merits and facts.

Aggravating factors:

9. From the agreed facts, I find the following aggravating factors ;
 - (i) **Value of the property damaged** – the property's value is \$3,000.00, you did caused the Complainant financial lose given the value of the property.
 - (ii) **Lack of respect for other people's property-** the complainant is your employee, you ought to show respect for him and his properties. Your action speaks of you as a person with no care attitude.

Mitigating factors:

10. I consider the following mitigating factors in your case;
 - (i) **Guilty plea & Remorse** – You entered an early guilty plea to the charge against you. Clearly it shows that you have own up to your wrongs and accept the consequences of your actions. More so, your guilty plea shows remorse on your part and undeniably saves court's time and resources of running a full trial.

(ii) **First-time offender and a person of previous good character**– You're a first time offender with no prior criminal records. You have been a person of good character for the past 30 years.

(iii) **Co – opération with police**- I noted that you co-operated well with the police, and admitted to them your wrongs at the first opportunity during your arrest.

Sentencing Tariffs:

11. It is obvious that cases of similar offending that come before the courts attracts penalties ranging from fine sentences, suspended sentence to imprisonment terms, depending on the individual nature, and circumstances of each case.

Sentencing Remarks:

12. The theme for your case is Respect. From today and onward I encourage you to digest and learn and understand what respect means in life. You must learn to respect other people and their properties. I must tell you that to show respect does not cost a dime, but if you dwell in it you will see the reward and how it feels to be respected. Today you might think that you're no body, but if you continue living a life with respect, am confident you will reap its benefit to some extend you do not expect. Hence, I encourage you to learn from the sentence I will impose on you as a lesson and turning point in your life. You must learn from this case and never to engage in any criminal activities in the future. You still have a huge life ahead of you, I encourage you to look ahead and decide what you want to be in the future.

Starting point:

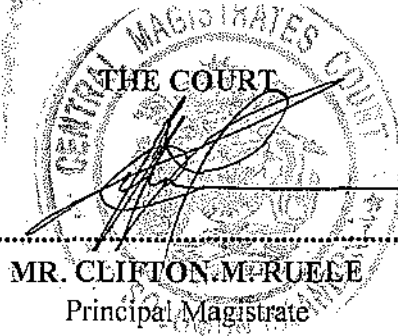
13. Having considered the facts of the case, the nature and circumstance of the offending herein, the sentencing principles and the range of sentences passed in respect of previous similar cases, and also considering the time you have spent in custody. I see it appropriate that I impose a fine sentence in your case and as such the starting point in your case is a fine of \$2,000.00.

Sentencing consideration:

14. I hereby reduce \$500 to consider you guilty plea and remorse. I further reduce \$300.00 to consider the fact that you are a person of previous good character and a first-time offender.
15. I further reduce \$300.00 your family circumstance and other mitigating factors. The resulting sentence is therefore, a fine of \$1,000.00.

Sentencing Order:

16. I hereby sentence you Joseph Solo to fine of \$1000.00 to be paid by close of business on the 13th March 2020- in default 40 days in custody
17. I order that you be release forthwith from custody.
18. 14 days right of appeal applies.
19. Order accordingly.



MR. CLIFTON M. RUELE
Principal Magistrate