

Count

IN THE CENTRAL MAGISTRATES COURT
IN THE SOLOMON ISLANDS

Criminal Case No. 137 of 2020

In the Criminal Jurisdiction

BETWEEN: HONIARA CITY COUNCIL
AND: GRACE SIALE

Before: Emily Z Vagibule

Mr Ambrose Motui for HCC

Defendant self-represented

Date of hearing: 2nd of March 2020

Date ruling: 2nd of March 2020

RULING

1. The Defendant in this matter was arrested and charged for one count of hawking in a public place without a hawker's license and one count of littering in a public place.
2. In the matter of HCC v Kiriwai¹, the issue regarding the suspension of hawker's licenses was raised leading me to invite submissions from parties. Based on my findings, the hawker's license was not suspended as claimed by most of those within the Honiara City Council enquiry desk. It was the Honiara City Licensing of Business Ordinance that was repealed. However, it was not totally shut out as a layperson would think.
3. Even Mr Inifiri was unable to assist me when the same issue arose sometimes towards the end of 2018. If the only person with a legal background working at the HCC is capable of assisting in this regard, then I doubt that the rest would be of any help.
4. Since this issue has again resurfaced after I have already given my ruling, I made an order to summon Mr Kohata and Mr Inifiri to come and clarify the doubts that HCC is still causing to the general public. However, when the matter was called both these men failed to turn up. I was later informed that they have gone to the Ministry of Home Affairs for a meeting. This was despite of the summons they have received. Such attitude speaks volumes of how unreliable higher officials within the HCC are in relation to issues on point of law. It shows how disrespectful they are for failing to

¹ Criminal Case 138 of 2020 (25 February 2020)

- notify the court of where they will be when they were supposed to appear in court.
5. This is exactly why HCC Ordinances will never be taken seriously because there is no respect and no sign of a responsive and effective law enforcing body as demonstrated by Mr Kohata and Mr Inifiri themselves. While people have been arrested and brought to court for breaching HCC ordinances, I doubt that these arrests were fair and effective² according to Powles minimum standards framework.
 6. While the court in its endeavours to ensure that all laws of this nation are complied with including HCC Ordinances, what transpired today shows no single sign of appreciation towards the court's effort in this regard.
 7. I come to think that the non-attendance on the part of these HCC officials might be due to a lack of knowledge towards the issue in which the court is seeking assistance of or they are just totally ignorant and disrespectful towards the court. While I may have voiced in all my sentences how people are so ignorant of the law and the fact that they have a **NO CARE ATTITUDE**, it seems that these two HCC officials are the ones who need to hear this the most.
 8. Until and unless such attitudes are dealt with, then people can respect all HCC Ordinances.
 9. Further to that, I have also asked that submissions be made on the issue of littering. In my view and having perused prosecutions submission, I find that it is difficult to assess with insufficient evidence that it was the Defendant who caused the general public to litter. The place in which the Defendant was arrested is one that is accessed by hundreds of people. Anyone could have dropped their rubbish or betel nut husks near the Defendant. Had she was arrested in the round about next to the HCC office and SIWA, then I might agree that she was the one who contributed towards littering in that particular place.
 10. Until there are CCTV cameras that captured a person who had purchased betel nuts from her (disposing off his or her rubbish near the Defendant), then we can say that the Defendant should be charged for this offence. This in my view is why HCC should employ proactive and committed legal people with wider legal backgrounds to oversee the legal department.

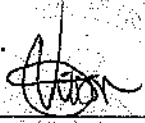
² Jowitt, A, Remembering Guy's influence, "*The Guy Powles Minimum Standard Framework*", [http://repository.usp.ac.fj/10234/1/The Guy Powles Minimum Standards Framework.pdf](http://repository.usp.ac.fj/10234/1/The_Guy_Powles_Minimum_Standards_Framework.pdf), 2nd march 2020.

11. It is with the above finding that I am not inclined to proceed any further with the count of littering in a public place and order that the Defendant be acquitted from this count forthwith. With Mr Motui's failure to provide sufficient evidence in this regard, I do not think HCC should charge any person for littering in a public place in addition to hawking cases unless there is sufficient evidence to prove it.

ORDERS

- (i) That the hawkers licenses is not suspended as claimed; and
- (ii) That there is insufficient evidence for the count of littering in a public place.

Dated this 2nd day of March 2020.



THE COURT
EMILY Z VAGIBULE