

**IN THE CENTRAL MAGISTRATES' COURT
OF SOLOMON ISLANDS**

Criminal Jurisdiction

Criminal Case No. 980 of 2017

On the 23rd of March 2020
Coram: Ricky Iomea, Deputy Chief Magistrate



Mr. Auga for the Crown
Mr. Alasia for the Accused

BETWEEN: REGINA Complainant
AND: DANIEL LEUA Accused

SENTENCE

- a) The Defendant, Daniel Leua is charged with one count of Arson contrary to section 319 (a) of the Penal Code. He has pleaded guilty to the charge on 16th March 2020 and accordingly, he is convicted on his own guilty plea.
- b) The issue for this Court now is what would be the appropriate sentence to be imposed against him. There are a number of factors that the Court will weigh and consider to arrive at an appropriate and just sentence in this case. These factors include; the facts of the case, aggravating and mitigating factors, principle(s) of sentencing applicable and past sentences for the offence of arson.
- c) The facts agreed by parties are reproduced in this sentencing, in its entirety, as filed and tendered. They are as follows:
1. The defendant is Daniel Leua, a 27 year old male from Volavu village, Lungu (*sic*) area, East Guadalcanal, Guadalcanal Province. He was 23 years at the time of the offending.
 2. The Complainant is Ben Buko, 34 years old from Volavu point, Lungu (*sic*) area. East Guadalcanal. He was 30 years old at the time of the incident.
 3. The complainant and the defendant are first cousin brothers.
 4. On Friday 28th July 2017 the defendant left his bag at Ben Buko's copra stored leaf house, when defendant away (*sic*). The bag contain (*sic*) perfume, oil, clothes and a touch screen mobile phone.
 5. Complainant Ben Buko returned to his leaf house. He saw a bag, he opened the bag and notice (*sic*) that bag belong (*sic*) to the accused, (his cousin).
 6. The complainant knew it was late evening. Anyone might steal the bag. He took the bag and kept it for safety, then went away.
 7. Not long after defendant returned to the complainant's shed house, he noticed that his bag being removed from the location he was expecting.
 8. Defendant was upset about his missing properties, and then he assumed the complainant was the one responsible for stealing his properties or bag.

9. He lit a dry coconut leaves (*sic*) at the middle ground floor of the copra stored (*sic*) leaf house and threw a (*sic*) seven big firewoods on it. Then he left to another village.
10. The said house built from bush materials, mainly sago palm leaves (*sic*) at the roof, the post made from bush sticks and the wall were made of bamboos. The said house built purposely for storing of copra and used as a resting place of the complainant and his family when they were away for fishing trips.
11. The properties that was (*sic*) damaged or loss (*sic*) during the arson incident were as follows;
 - i. Two (2) farmer bags full of clothes value of \$1000.00
 - ii. One (1) big blue tent value of \$500.00
 - iii. One (1) single mat - \$40.00
 - iv. One (1) white plastic - \$100.00
 - v. Cooking and eating utensils - \$1000.00
 - vi. Tools, 2 knives - \$200.00
 - vii. Drinking containers (2x5 litres) - \$150.00
 - viii. Fishing lines - \$100.00
 - ix. Light bulb - \$80.00
 - x. Small battery - \$200.00
 - xi. Total value of the house build (*sic*) - \$1000.00

Therefore, the total damage to the properties or suffered by the complainant is \$4,320.00.
12. The matter later reported to the Aola Police Officers. The police officers arrested the accused, on 30th July 2017 record of caution interview took place, defendant admitted that he was the one responsible for the burning of the sago palm shed house.
13. On the 14th August 2017, there was a custom ceremony conducted between the complainant and the defendant. This includes paying of pig worth \$1000.00, local foods, two strings Guadalcanal shell money and a cash of \$500.00.

Aggravating factors

- d) The total value of the properties damaged is estimated at around \$4,320.00. I am of the view that this is a substantive value in the context of rural Solomon Islanders and therefore a huge loss for the complainant. The action by the defendant had deprived the complainant of his properties.
- e) The Accused's selfish and unlawful behaviour in setting the house on fire no doubt has deprived the complainant of enjoying the shelter for copra storage and resting when on fishing trips. The Accused clearly had no regard or respect for properties of the complainant and had deliberately decided to hurt the feelings of the complainant because he was angry at the complainant for his missing properties. He allowed anger to control and take him beyond self-control and consequently, took the law into his own hands by passing judgment and executing punishment on the complainant. No excuse or reason will justify his unlawful action.

Mitigating factors and the principle of sentence applicable.

- f) The Defendant is a young man who has a long future ahead. He is also a first time offender. The Court has taken into account his plea of guilty.

- g) Compensation has been paid by the defendant to the complainant. This is important in custom to resolve any ill-feelings between the defendant, his family and the complainant and his family as they are close relatives and will allow continuous peaceful co-existence with each other.
- h) I also take into account the principle of deterrence both general and specific. This sentence will not only serve as a punishment for the defendant but must also stop him and other like-minded members of the public from committing such offence in the future. The courts will continue to remind those who wish to take the law into their own hands, without exercising self-control and not referring their grievances or complaints to the relevant authorities for investigation and prosecution or not resolving their disagreements in a peaceful way that the courts will not tolerate or accept unlawful actions and anyone found in breach of the law by the courts will face punishment.
- i) I have also considered the cases submitted by the Crown which are of more similar nature to the present case. I note that the sentencing range is from 6 months imprisonment to 3 ½ years imprisonment.

Appropriate Sentence and orders

- j) For this case, having considered the different factors above, I am of the view that the appropriate sentence to be imposed is 12 months imprisonment.
- k) The sentence is backdated and will commence on 5th December 2019, the day he was first remanded.

The Court,



Ricky Iomea - DCM

