



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

(Criminal Jurisdiction)

Criminal Case No: 351 of 2020

REGINA

-V-

BROWN TALUI

Coram: HOLLISON F (PRINCIPAL MAGISTRATE)

Appearances:

Mr Waokea for the Crown (Police Prosecutions)

The defendant appeared in person

Date of sentencing and Mitigation: 1st of April 2020

Date of Sentence: 1st of April 2020

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

SENTENCE

INTRODUCTION

1. The defendant Mr Brown Talui was charged with one count of carrying about, offering or exposing for sale, any liquor without a licence contrary to section 59(2)(a) of the Liquor Act [Cap 144]
2. He pleaded guilty to the said charge this morning.
3. I now pronounce his conviction based on the plea entered.

Antecedent

4. The defendant's name full name is Brown Talui, a 30 year old native of Bita'ama village, North Malaita, Malaita Province.

THE FACTS

5. The incident occurred at Bahai area, Central Honiara in Honiara on Guadalcanal on the 22nd of March 2020.
6. The defendant was seen by the members of the Central Response Unit within the Royal Solomon Islands Police Force, standing in front of the Guadalcanal Provincial Government building at around 10pm in the night. That particular area is notoriously known for selling of liquor by members of the public at night without any licence. This made the police to have suspicion with respect to the defendant, and the possibility that he could be involved in the illegal sale of liquor.
7. The defendant having noticed that the police had been watching him so he ran into the Barrack Shop at Bahai and went further into a store room in an attempt to evade police. The police followed him into the shop and conducted a search in the store room.
8. The police found, seized and confiscated the following alcohols and beers:
 - [1] 1 carton of Sara Gold beer with an additional 16 cans of Sara Gold;
 - [2] 1 carton of Canoe (Brown);
 - [3] 1 carton of SB can;
 - [4] 12 cans of SB;
 - [5] 1 Carton of Canoe (Blue);
 - [6] 8 cans of Red Horse;
 - [7] 4 cans of Canoe (Brown);
 - [8] 2 cartons of Whisky Cola with an additional 23 cans;
 - [9] 21 Sol brew Cans;
 - [10] 20 bottles of Saratoga;
 - [11] 15 cans of Saratoga
 - [12] 1 carton of Saratoga with an additional 16 cans;
 - [13] 3 cartons of Sol brew cans.
9. The defendant was apprehended by the Police and participated in a caution interview. He admitted that he was the one who prepared the alcohol and beers enumerated above for sale.
10. He was arraigned and pleaded guilty this morning.

DISCUSSION AND ANALYSIS

11. Section 59(2)(a) of the *Liquor Act* [Cap 144]¹ provides as follows:

¹ *Liquor Act* [Cap 144], s 59

(2) Any person carrying about, offering or exposing for sale, any liquor without a licence shall be guilty of an offence and shall be liable-

(a) for a first offence to a fine of two hundred dollars, and

12. The 200 dollars maximum penalty has since been increased to SBD 1, 500 following the enactment of the *Penalties Miscellaneous Amendment Act 2009* (No 14 of 2009).²

Aggravating features

13. The aggravating factors are as follows:

14. The increase of the penalty from SBD 200 to SBD 1500 as a maximum sentence shows the intention of the legislature to address the illegal sale of liquor in the country.

15. The exposing for sale, or selling of alcohol without a licence robs the Honiara City Council and the government of the revenue it should receive with respect to licensing fees and taxes.

16. The alcohol and beers that were exposed for sale include several cartons of beers, with additional cans and bottles. This means that the defendant could make profit without complying with the necessary requirements of the *Liquor Act* [Cap 144].

Mitigating Features

17. The mitigating factors are as follows:

18. *Early guilty plea.* Mr Talui pleaded guilty in the first available opportunity. This shows that he is remorseful and sorry for what he did. This saves the courts time and resources. He also apologized to the court and promised not to reoffend in the future which is a sign of genuine remorse as well.

19. *First time offender.* The defendant has no previous conviction and a first time offender.

20. *Personal Circumstances.* The defendant is married and a bread winner. He is responsible for his children's welfare. He is 30 years of age and also has a high chance of rehabilitation.

21. *Cooperation with the Police.* He cooperated with the Police during the course of investigation and made an early admission to the offence despite the fact that he might have attempted to evade police at the time of offending.

Sentencing Principles

23. The sentencing principles such as punishment, deterrence, and rehabilitation must always be taken into consideration in the process of formulating a sentence.

²*Penalties Miscellaneous Amendment Act 2009* (No 14 of 2009).

24. It is an established principle that each case must be decided based on its own merits, facts and circumstances.

SENTENCING TARIFFS

25. A penalty fine is the prescribed penalty for a first time offender with respect to this offence.

Starting Point

26. After having considered the relevant factors and the circumstances of this case, I am satisfied that a penalty fine is appropriate for this present case.

27. I take into account all the mitigating factors such as early guilty plea, no previous conviction, his personal circumstances, and his cooperation with the Police and give him full credit.

28. After balancing both the aggravating and the mitigating factors, I am satisfied that an amount SBD 1000 is proportionate to the magnitude of the offence.

CONCLUSION

29. The carrying out or exposing for sale any liquor without a licence is an offence in this jurisdiction.

30. I note that this is an ongoing problem in the country especially here in Honiara. There are some people who involve in this activity for genuine reasons, that is, to get income and to put food on the table or to provide the necessities of life for their families. However, it is wrong in law because there is a prerequisite statutory requirement that a licence would need to be obtained first from the rightful authorities before a person is allowed to venture into exposing for sale or actual selling of alcohol. There are many options available in life in terms of earning an income but not through illegal means such as this present case.

31. One of the few aggravating features in this present case is that it deprives the government and other authorities such as the Honiara City Council of the revenues through the paying of taxes and licensing fees.

32. Having said that, I now sentence Mr Brown Talui and order him to pay a fine of SBD 1000 within 14 days from today.

33. This should also be a lesson to the defendant, and should send a message of deterrence to the members of the public.

ORDERS

34. The orders of the Court are as follows:

- [1] The offender Mr Brown Talui is sentenced and ordered to pay a fine of SBD 1000 within 14 days from today.
- [2] In default of payment, Mr Talui shall be imprisoned for forty days.
- [3] The liquor and alcohol enumerated above (paragraph 8) shall be forfeited to the State. The alcohol and beers shall be sold at a price of SBD 80 per carton irrespective of brands and varieties, and SBD 4 for each can and bottle irrespective of brands and varieties for ones that are not placed in cartons.
- [4] Right of Appeal within 14 days.


PRINCIPAL MAGISTRATE FELIX HOLLISON
THE COURT
