



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

(Criminal Jurisdiction)

Criminal Case No: 37 of 2021

REGINA

-V-

TRISTAN ZINIHITE

Coram: HOLLISON F (PRINCIPAL MAGISTRATE)

Appearances:

Ms F Hiroshachi, Police Constable, for the Crown (Police Prosecutions)

Mrs N Tongarutu for the defendant

Date of Sentencing: 21st April 2021

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

SENTENCE

1. The defendant Mr Tristan Ninihite was charged with one count of failing to display vehicle licence contrary to section 13(1) of the *Road Transport Act* [Cap 131], one of count of driving an unlicensed vehicle contrary to section 7(1) of the *Road Transport Act* [Cap 131]; one count of using a motor vehicle that is not insured contrary to section 8(1) and (2) of the *Moto Vehicles (Third Party Insurance) Act* [Cap 8]¹; and one count of Driving without a valid licence contrary to section 20(1) of the *Road Transport Act* [Cap 131].
2. The defendant pleaded guilty to the said offences and I now convict him accordingly.

¹ *Moto Vehicles (Third Party Insurance) Act* [Cap 8]

Antecedent and basic background

3. The defendant's name is provided above and he is originally from Munda in the Western Province. He was 26 years of age at the time of the offending. He is presently single, and currently employed by Agnes Gateway Hotel in Munda in the Western Province.

FACTS

4. The incident occurred in Honiara on the 18th May 2020 at about 1030hrs.
5. At the material time, the defendant drove a motor vehicle described as Grey Honda CRV registered as MA-5226 in front of Saint John School along the Mendana Avenue in West Honiara.
6. The Honiara Police Traffic Officers at the time was conducting a traffic check on all vehicles at the said location including the vehicle that the defendant was driving.
7. Upon inspection by the Police, it was found that at the material time, the vehicle did not have a license sticker displayed on it as required by the *Road and Transport Act* [Cap 131], the vehicle was not properly licensed, the vehicle was also uninsured as required in section 8(1) and (2) of the *Moto Vehicles (Third Party Insurance) Act* [Cap 8], and the defendant also did not have any valid driving licence as per the *Road and Transport Act* [Cap 131].

DISCUSSION AND ANALYSIS

Count 1: Failing to Display a vehicle licence

8. The maximum penalty for the offence of failing to display a vehicle licence contrary to section 13 of the *Road and Transport Act* [Cap 131] is either a penalty of SBD 5000 or an imprisonment of 6 months or both.²

²*Road Transport Act* [Cap 131], s. 13.—(1) No vehicle which is required to be licensed shall be used on a road unless the licence, which shall be legible and in no way defaced, is displayed on the vehicle in the prescribed manner.
(2) Any person who contravenes or fails to comply with the provisions of this section shall be guilty of an offence and liable to a fine of two hundred dollars or to imprisonment for six months, read with *Penalties Miscellaneous Amendment Act 2009*

Count 2: Unlicensed Vehicle

9. The maximum Penalty for using an unlicensed vehicle contrary to section 7(1) of the *Road and Transport Act* [Cap 131] is either a penalty fine of SBD 5000 or 6 months imprisonment or both.³

Count 3: Uninsured Vehicle

10. The maximum penalty for using an uninsured vehicle contrary to section 8(1) and (2) of the *Moto Vehicles (Third Party Insurance) Act* [Cap 8]⁴ is either a fine of SBD 150 or 4 months imprisonment.

Count 4: Driving Licence

11. The maximum penalty for driving without a valid licence contrary to section 20(1) of the *Road Transport Act* [Cap 131] is either a penalty fine of SBD 5000 or 6 months imprisonment or both.⁵

Aggravating features

12. The aggravating factors are as follows:
13. **Maximum sentence.** The amendments made in 2009 under the *Penalties Miscellaneous Amendment Act 2009* to have the monetary penalty fines increased shows the intention of Parliament to impose harsher penalties to address the upsurge in traffic offences.⁶
14. **Unlicensed Driver.** A person who drives a car without a valid licence means that he is not certified and capable of driving a motor vehicle. This risks the life of the driver himself, road users, other vehicle and its passengers, and pedestrians.

Mitigating Features

15. The mitigating factors are as follows:
16. **Early guilty plea.** The defendant entered an early guilty plea. This assists the court in disposing of this matter expeditiously. It is also an indication remorse on the part of the defendant.

³ *Road Transport Act* [Cap 131], read with *Penalties Miscellaneous Amendment Act 2009*.

⁴ *Moto Vehicles (Third Party Insurance) Act* [Cap 8]

⁵ *Road Transport Act* [Cap 131], s 20(1) read with the *Penalties Miscellaneous Amendment Act 2009*

⁶ *Penalties Miscellaneous Amendment Act 2009*

17. *First time offender.* The defendant is a first time offender.
18. *Cooperated well with Police.* He cooperated well with the Police during investigation.
19. *Delay.* The charges should have been laid last year, however, that apparently has not been done until this year.
20. *Personal Circumstances.* The personal circumstances of the defendants are as follows: He is currently around 27 years old, single and employed by Agnes Hotel in Munda, Western Province.

Sentencing Principles

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

Sentencing Tariff

22. The most common form of penalty in these traffic offences is penalty fine. Concerning the very serious cases, an offender may be sentenced to imprisonment and other less serious offences, a bound over may be imposed on an offender, and sometimes a discharge, can also be imposed.

Starting Point

23. After having considered the circumstances of the case, the aggravating and the mitigating factors, I am of the view that a penalty fine is appropriate for this present case with respect to all the charges.
24. For counts 1, 2 and 4, a starting point of SBD 2000 is appropriate. However, taking into account the mitigating factors enumerated above, a reduction of SBD 1000 is appropriate for each of those counts. Thus, the resulting sentence is SBD 1000 for each of those three counts. Concerning count 3, I impose a penalty fine of SBD 50. The sentences for these four counts are to run concurrently which means, the total penalty fine is SBD 1000. Thus, I sentence Mr Zinihite and order him to pay a total fine in the sum of SBD 1000 for the offences he committed in this matter by the 23rd of April 2021.
25. It is important for a driver to have a current driving licence, and the vehicle must be licensed and insured before one should be able to drive that said vehicle.
26. These statutory requirements imposed by the *Road Transport Act* [Cap 131] and other relevant laws must be complied with and one of the overarching objectives is the overall safety of the driver, passengers and also the road users, and to minimize risks and accidents.

27. I hope the defendant will refrain from committing these traffic related offences again in the future. This sentence should also send a message of deterrence to other vehicle owners, drivers and aspiring drivers to comply with the requirements of the *Road and Transport Act* [Cap 131] before actually driving a vehicle on the road.
28. Quite apart from that, I take judicial notice of the fact that many people's properties that were detained by Police have gone missing on a number of instances in the past. The key of the vehicle in this present case had gone missing whilst the vehicle was under police custody at the Kukum Police Station. On the 10th February earlier this year, the defendant enquired with the Kukum traffic and was told that the key was missing. The purchase of the new key at Naha Motors is SBD 950 including another SBD 150 for labour costs. The Police has so far not refunded the money spent on the key of the vehicle to the owner of the vehicle. I must say that it is incumbent on the Police to keep the people's properties under their custody with great care. The reputation of any professional organization is contingent upon the actions and attitude displayed by the members, and recently theft and other bad activities that occurred within the Police premises have brought shame and disrepute to the Police Force, and the traffic officers must be reminded of the same.

ORDERS

29. The orders of the Court are as follows:

30. The offender Mr Zinihite is sentenced as follows:

- [1] Count 1: SBD 1000 for failing to display vehicles licences contrary to section 13(1) of the *Road and Transport Act* [Cap 131];
- [2] Count 2: SBD 1000 for driving a vehicle that is unlicensed contrary to section 7(1) of the *Road and Transport Act* [Cap 131];
- [3] Count 3: SBD 50 for one count of using a motor vehicle that is not insured contrary to section 8(1) and (2) of the *Moto Vehicles (Third Party Insurance) Act* [Cap 8]⁷
- [4] Count 4: SBD 1000 for one of driving without a valid licence contrary to section 20(1) of the *Road Transport Act* [Cap 131].

31. All sentences are to run concurrently and therefore the total sentence is SBD 1000 which must be paid before Friday 23rd April 2021 at 4:30pm. In default of payment, the defendant shall be imprisoned for 40 days.

32. Right of Appeal within 14 days.

⁷ *Moto Vehicles (Third Party Insurance) Act* [Cap 8]

F. Hollison

PRINCIPAL MAGISTRATE FELIX HOLLISON
THE COURT

