

REGINA v STANLEY BROWN



Case Number: Criminal Case No. 335 of 2021
Sentence date: September 30, 2021
Court: Central Magistrates' Court – At Honiara
Coram: Deputy Chief Magistrate, Ricky Iomea
Counsel Names: Vernon E. Taupongi for the Crown (ODPP)
Steven Weago for the Accused

SENTENCE

The Accused has been charged with one count of Reckless and negligent act, contrary to section 237 (b) of the Penal Code. He pleaded guilty to the charge on the 3rd of September 2021. Today is for the Court to sentence him.

The facts as agreed by the Crown and the Defence are as follows;

1. The Accused is Stanley Brown of Sali village, Longu District, East Guadalcanal, Guadalcanal Province.
2. The Deceased is Charles Kapini, a 55 year old native of Noenoe village, East Central Guadalcanal, Guadalcanal Province.
3. The incident occurred outside of Sali village, a known fishing site to villagers and boat users.
4. On 16 June 2021, the deceased was at sea fishing with his sons and few other villagers. They were all floating around the area in their dugout canoes. As it heads towards midnight, two outboard motors (OBM) drove in their direction.
5. The Accused was the driver of one of the OBM (sic), a 30 horsepower Suzuki engine. Two passengers were travelling with him. They were returning from fundraising held at another village. The two passengers were drunk but the defendant was not drunk at the relevant time.
6. The moon was setting behind a hill at the material time of the offending. In effect, light was obscured, leaving the place of incident in shadows.
7. As the Accused travelled back to Sali village, they met up with the villagers floating at sea fishing. The deceased was floating alone a few meters from the others, closer than the others to the coast. The accused drove his OBM straight to where the deceased was. The deceased repeatedly shouted out to alert the incoming boat but he was not heard. Eventually, he was hit by the OBM and he was overturned from his dugout canoe.
8. One of the passengers in the OBM swam towards the deceased and lifted him inside their boat and transported him to Totongo Clinic.
9. The deceased died whilst he was examined by one of the nurses at the clinic.
10. The autopsy report revealed that the deceased died of multiple injuries to the head and chest. There was laceration on the right ear that is also involved the scalp, measured at

but it is not a means of buying one's way out of trouble as stated in *Regina v Asuana*¹ by Ward CJ as he then was. I note from the Sworn Statement of Peter Kabela that the compensation paid to the family of the deceased included a shell money (tafulia) worth \$2500.00, a Kariawara (custom money) worth \$3000.00, one Atahana (custom money) worth \$600.00 attached to a single string shell money worth \$160.00, a live pig, traditional foods and processed foods. The value of this compensation shows the apology made on behalf of the accused and his family to the family of the deceased.

Having considered the facts of this present case, the fact that the offending had resulted in a loss of life, need for deterrence, the plea of guilty, a first time offender and the fact that compensation has been paid, I am of the view that the appropriate sentence to be imposed in this case is 10 months imprisonment. The sentence is backdated to commence on 21st June 2021, the day he was remanded in custody. I do not think that the sentence should be partially or wholly suspended.

The Court,



¹[1990] SBHC 106; [1990] SLR 201 (12 October 1990)