



**IN THE CENTRAL MAGISTRATES' COURT )  
OF SOLOMON ISLANDS AT HONIARA )  
(Criminal Jurisdiction)**

Criminal Case No. 750 of 2021

**REGINA**

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**JUNIOR TINGOIKA  
BRANDON PUIA  
BRONY NIUHUA  
JIM KAIPUA**

**Date of plea:** October 25, 2021  
**Date of hearing:** October 25, 2021  
**Date of sentence:** November 8, 2021

*Moffat Tei for the Police Prosecution  
Defendants in person*

**SENTENCE**

**Introduction:**

[1]. The four defendants, Junior Tingoika, Brandon Puia, Brony Nihua, and Jim Kaipua, are charged with an offence of *Common Nuisance*, contrary to section 175 of the Penal Code [Cap. 26]. They all appeared in person and informed the court that they opted to be self-represented, and accept to take their individual pleas. Upon arraignment, they all entered detached guilty pleas. As such, criminal convictions was registered against all of them. The matter is before court today for sentence, I shall now proceed to explain my deliberation.

**Brief summary of facts:**

[2]. The summary of facts was read to the defendants in pidgin, and they all, conceded to it. The facts reveal that on October 23, 2021, at about 3:00 a.m. to 5:00 a.m. the complainant was at his home at the Oxfam area, near Tandai highway, when he was disturbed by a very loud music, playing from a Bluetooth speaker by these defendants. He could not sleep that night, as they were also shouting at the top of their voices, up and down the road at Oxfam. The whole community was being disturbed.

- [3]. At around 8:00 a.m. to 8:30 a.m. the complainant left for work, and on his way to the main road, he was approached by the defendants, who were all intoxicated. So, he warned them to stop such anti-social behaviour and attitude that they normally practice during weekends. He also informed them that a similar incident had happened two weeks ago, which involved youths, and they were convicted at the court for common nuisance. Instead, the defendants responded to him in a sarcastic manner, so, he left for work that day.
- [4]. Upon his return from work, at around evening, he noticed the defendants were still drinking, playing loud music, and shouting very aggressively in an inconsiderate manner. And, at about, 7:30 p.m., the complainant went and shine a torch at the defendants for visibility purposes, to which one of the defendants, Mr. Brony Niuhua, responded angrily and uttered words to the effect: *"hey, who na torch yia, you Fuckem you, you who ia. Fuckem you fala, Fuckem koka blo ufala. Fuckem kan blo ufala, Fuckem ufala full community lo yia. Fuckem mummy blo ufala, Fuckem Daddy blo ufala. Ufala ting se rie what ia, me criminal!"*
- [5]. At this point, the complainant reveal himself to them, stating that he is a police officer, and had already warned them to stop. However, Mr. Niuhua, responded and uttered the words to the effect: *"Fuckem ufala every police, you no anything. Fuckem you Amos, Fuckem Mike Bongi, ufala ting se mi fright m. ufala. Fuck Police!"* They then relocated to one of the defendants' house and proceeded with playing of the loud music, disturbing the whole community. As such, the complainant, returned and called the police for assistance, and not long, the White River Police responded and apprehended the defendants.

**Maximum prescribed punishment:**

- [6]. Section 172 of the Penal Code, has a statutory established penalty of 1 year imprisonment. This depict the seriousness of this offence, and the stern approach by our legislature, to abhor and discourage such an offence from happening within our urban and rural communities. Section 24 (2) of the Penal Code, states that, any person who is liable to imprisonment, may be sentenced for any shorter term. Thus, perpendicular with the notion deciding cases according to their own merits, and that maximum penalties are normally reserved for the most despicable type of offending.

**Aggravating and mitigating Features:**

- [7]. The Prosecutor submitted the following as aggravating feature. First, the offence occurred at night, which aggravates the offending. It caused disturbance and fear to those living in and around the vicinity. Most of the residents were at home, resting. Second, the defendants' were warned by a police officer, but failed to heed the warning. They instead, mocked him, and swore at him and the RSIPP, as well as, the whole community. Third, they did the commission of offence in a group like manner, which possess more fear and anxiety to the community, and perhaps, those who may wish to talk them out of such behavior. The noise would be greater than say, if it involves a single defendant. Finally, the noise and disturbance went on for long hours. The defendants' had started drinking and playing the loud music a day before the arrest, and carried on through the night and to the next day as well, until late evening.
- [8]. For their mitigation. First, all of them pleaded guilty at the first instance, without assistance of a lawyer. They appeared remorseful in court, and verbally submitted that they were sorry for what they did and will not repeat such offence in the future. Second, all of them are first offenders. They have a stunning record, which demonstrate that they are law-abiding citizens before the offending.

**Sentencing tariff:**

- [9]. The courts have been imposing sentence, ranging from good behavior bond, fines, and imprisonment, depending on the gravity of each cases. In a case of *R v Rodrick & Others* (*"Rodrick"*), the court imposed a good behavior bond in the sum of \$500 for 6 months. The facts were that, the defendants' were playing loud music from a Bluetooth speaker, shouting and swearing at the Community Policing Officers' at Kaibia area. They had disturbed the entire neighborhood. All of them entered guilty pleas, and were all first offenders. The court had acknowledged their youthfulness in passing the sentence.
- [10]. In another case of *Regina v Balou*<sup>1</sup> (*"Balou"*), the facts were that, the defendant pleaded guilty to a count each of common nuisance, and assault on police officer. The defendant, including his friends were playing loud music and shouting, while drinking. When police

<sup>1</sup> SBMC-Criminal Case No. 680 of 2021

<sup>2</sup> [2015] SBMC 7; Criminal Case 417 of 2015 (19 August 2015)

arrived, the defendant approached the police vehicle and ordered police to leave the vicinity otherwise, they would be stoned. While a police officer was trying to calm the defendant, he retreated, took a stone and hurled it on the officer, which she sustained abrasions to her left eye. He was sentenced to 3 months imprisonment for the offence of common nuisance.

- [11]. In assessing and comparing the facts of the above cases, it appears that the one before hand falls in between these two cases. It involved a blatant disregard to the warning given by the complainant, who is a police officer, and the attitude of drinking, swearing and shouting inconsiderately over long hours. I agree, any sentence must fall below that of *Balou*, but above *Rodrick*. In this case, I accept what the prosecution is seeking, an immediate custodial term.
- [12]. Having decided on imprisonment term as the appropriate method, I take a starting point at 3 months' imprisonment. I further add 2 months to consider the aggravating factors, which should reach a head sentence of 5 months' imprisonment.
- [13]. Considering the mitigating factors, I deduct 25% or 2 months to consider their early guilty plea, which portrays their genuine remorse. I further deduct 2 months to consider the fact that they are all first offenders, and, all are youths who have a lot to learn and discover in life. Therefore, the resulting sentence is a month imprisonment.
- [14]. I believe this is a turning point and a lesson for all these defendants. They must embed in their lives that the rule of law prevails, and no one is above the law. Also, they must learn to render complete respect to the Royal Solomon Islands Police Force, and its members. These individuals have sacrificed their time and effort, and have placed their lives on the line to ensure our communities and societies are safe and secure, by maintaining the peace, and law and order.

#### Sentence orders

- [1]. I hereby sentenced the defendants: Junior Tingoika, Brandon Puia, Brony Niuhua, and Jim Kaipua to 1 month imprisonment.
- [2]. Sentence to commence from date of first remand.
- [3]. Conviction is entered.

[4]. 14 days right of appeal is applied.

[5]. Order accordingly.

