



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

**(Criminal Jurisdiction)**

**Criminal Case No: 903 of 2021**

**REGINA**

**-V-**

**DAVID KWAIMANI, LENCY SALA, GABRIEL LUSIMANI, RODNEY KELLY, JACK TUA, WILLIE MENAK, JOHN MEUWA, DICKY MEWA, MAXSON DOU, JIMMY RUMU, ANTHONY MALAU, ALFRED BADE, DUNCAN DANITA, GRAY JOHN VISUA, HARE AKOSIA, ALLEN JAMES WANEFAI AND ABRAHAM KELA**

**CORAM: HOLLISON F (PRINCIPAL MAGISTRATE)**

**Appearances:**

Ms Myrella Clevon, Senior Legal Officer, Office of the Director of Public Prosecutions, for the Crown

Mr George Taedi, Senior Legal Officer, Public Solicitors Office (PSO), for Anthony Malau, Alfred Badi, Duncan Danita, and Gray John Visua

Mr Bobby Harunari, Senior Legal Officer, PSO, for Hare Akosi,

Ms Emy Pisiwania Rusi, Senior Legal Officer, PSO, for Abraham Kela, Rodney Kelly and Jack Tuwa

Ms Beverly M Saefoa, Senior Legal Officer, PSO, for Jimmy Rumu Tainia, Maxson Dou, John Meuwa

Ms Pauline Firibae, Senior Legal Officer, PSO, for Gabriel Lusimani, Sala Lency and David Kwaimani

Mr Paul Onisi None, Senior Legal Officer, PSO, for Allen James Wanefai, Willie Menak, Dicky Mewa

***Date of Sentence: 20<sup>th</sup> December 2021***

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

## SENTENCE

### INTRODUCTION

1. The defendants David Kwaimani, Lency Sala, Gabriel Lusimani, Rodney Kelly, Jack Tua, Willie Menak, John Meuwa, Dicky Mewa, Maxson Dou, Jimmy Rumu Tainia, Anthony Malau, Alfred Badi, Duncan Danita, Gray John Visua, Hare Akosi, Allen James Wanefai, and Abraham Kela are charged with one count of *Restriction of Movement of Persons in Honiara: contrary to Regulation 5(1), (2) (a) and (b); and 9(1) of the Preservation of Public Security Regulations 2021 and section 3 of the Preservation of Public Security Act [Cap 27] and 21(a) of the Penal Code [Cap 26]*. There are three other juveniles who were charged with these adults whom I have sentenced to penalty fine and a good behavior bond respectively already after pleading guilty to this charge. These adult defendants have pleaded guilty and I now convict each of them.

### FACTS

2. The facts can be summarized as follows.
3. Mr Hare Akosi is 19 years old and he is from Sisifu Village, North Malaita, Malaita Province. He lives in Honiara. He is the only teen in this group.
4. Mr John Meuwa is 21 years old. He lives at Lunga in east Honiara. He is from No'ole Farm, Santa Cruz, Temotu Province.
5. Mr Anthony Malau is 29 years old. He lives at Burns creek, East Honiara. He is married and has a 7-year-old son.
6. Mr Alfred Badi is 43 years old. He lives at Foxwood in Central Guadalcanal in the Guadalcanal Province. He is a native of Noipe village, Santa Cruz, Temotu Province.
7. Mr Duncan Danita is 28 years old. He lives at Jericho 1 in Honiara. He works as a carpenter. He is a native of Kuzi village, Kolombangara, Western Province.
8. Mr Grey John Visua is 20 years old. He lives at Foxwood, Dodo Creek. He is a native of Weathercoast in the Guadalcanal Province.
9. Mr Jimmy Allen Wanefai is 28 years old. He is an employee of Solrice Company Limited. He is from North East Malaita, Malaita Province.
10. Mr Dicky Mewa is 38 years old. He lives at Panatina area, East Honiara. He is from Banesa village, Santa Cruz, Temotu Province. He is married and has child.

11. Mr Willie Menak is 21 years old. He lives at Lunga, Honiara. He is from Santa Cruz in the Temotu Province.
12. Rodney Keli is 24 years old. He lives at Kombevatu in Honiara. He works as a welder for a Chinese company at Henderson. He is from Sakafau village, Central Kwarae, Malaita Province.
13. Jimmy Rumu (Rumutainia) is 30 years old. He lives at Lunga area. He is from Tetera Village, Haununu, Makira Province.
14. Mr Gabriel Lusimani is 29 years old. He lives at KGVI area. He is from Fote (Walo), North Malaita, Malaita Province.
15. Mr Lency Sala is 25 years old. He lives at Panatina Campus, SINU, East Honiara. He is from Busurata, Central Kwarae, Malaita Province.
16. Mr David Kwaimani is 25 years old. He lives at Panatina, East Honiara. He works as a store keeper. He is from North East Malaita, Malaita Province.
17. Mr Abraham Kela is 48 years old. He works as a bus driver. He lives at Panatina Creek, SINU, East Honiara.
18. Mr Jack Tuwa is 31 years of age. He lives at Henderson Area, east Honiara. He is from Dala North in West Kwarae in the Malaita Province.
19. Mr Maxson Dou is 22 years old. He lives at Ranadi Dump site. He is from Koloula, Weathercoast in the Guadalcanal Province.
20. On the 25<sup>th</sup> November 2021, His Excellency, Sir David Vunagi, Governor General of Solomon Islands declared a lockdown on the basis that it was necessary for the preservation of Public Security to do so, under section 3 of the *Preservation of Public Safety Act* [Cap 27].
21. The lockdown commenced from 7:00pm on Wednesday 24<sup>th</sup> November until 7:00am, on Friday, 26 November 2021.
22. On Thursday 25<sup>th</sup> November 2021, large groups of people started forming in east Honiara at the Ranadi industrial site. It resulted in looting and ransacking of many business houses in Honiara. There are notable buildings such as the Bank of South Pacific (BSP) Ranadi branch and other business houses which were set on fire. The level of destruction increased throughout the day. Members of the Royal Solomon Islands Police Force (the Police) struggled to control the groups of people.

23. On the 26<sup>th</sup> November 2021, the Governor-General declared a curfew on the basis that it was necessary for the preservation of public security to do so, under section 3 of the *Preservation of Public Security Act* [Cap 27].
24. The curfew was in force between the hours of 7:00pm and 6:00am from the 26<sup>th</sup> November to the 10<sup>th</sup> December 2021.
25. On Friday 26<sup>th</sup> November 2021, at around 7pm, the Police arrested a group of people at the Ranadi area closer to the Bishop brothers building and other nearby buildings. The defendants were part of the group.
26. The defendants were arrested by the Police with the assistance of the foreign forces.
27. On Sunday 28<sup>th</sup> November 2021, the defendants participated in cautioned record of interviews with the police.
28. The defendants were remanded on the 29<sup>th</sup> November 2021.

#### DISCUSSION AND ANALYSIS

29. The sentencing principles that must always be taken into account are punishment, retribution, deterrence and rehabilitation.
30. I note that the cases under the recent lockdown and curfew regulations have no proper sentencing guidelines and I note that the recent case authorities in the trial lockdown may provide some useful guidelines. However, the starting point is that this present case must be generally treated as more serious than the trial or mock lockdowns and curfews. This is not a mock lockdown and the regulations were in place to contain the lawlessness that rampaged our nation's capital from the 24 to 27 November 2021.
31. Section 3 of the *Preservation of Public Security Act* [Cap 27]<sup>1</sup> provides as follows:

*3.—(1) If at any time the Governor-General is satisfied that it is necessary for the preservation of public security so to do, he may by notice declare that the provisions of subsections (3) and (4) shall come into operation and thereupon those provisions shall come into operation accordingly; and they shall continue in operation until the Governor-General by further notice directs that they shall cease to have effect, whereupon they shall cease to have effect except as respects things previously done or omitted to be done.*

---

<sup>1</sup> *Preservation of Public Security Act* [Cap 27], s 3

32. Section 5 of the *Preservation of Public Security Regulations (No. 2) 2021* states as follows:<sup>2</sup>

*Restriction of movement of persons*

(1) *A person must not enter or leave the emergency zone between the hours of 7.00 pm and 6.00 am.*

(2) *A person in the emergency zone must:*

(a) *be at the person's place of residence, and remain there, between the hours of 7.00 pm and 6.00 am; and*

(b) *not leave or be away from the person's place of residence, between the hours of 7.00 pm and 6.00 am.*

(3) *Subregulation (1) or (2) does not apply if a person:*

(a) *enters or leaves the emergency zone, or leaves his or her place of residence, 1072*

*because of a matter of urgency; or*

(b) *is exempted from complying with this Order under regulation 6; or*

(c) *is exempted in writing from complying with this Order by the Commissioner of Police.*

33. Regulation 9 of the *Preservation of Public Security Regulations (No. 2) 2021* states as follows:

(1) *A person who contravenes regulation 5 commits an offence.*

*Maximum penalty: 10,000 penalty units or 5 years' imprisonment, or both.*

**Aggravating Factors**

34. **Maximum Sentence.** The maximum sentence of this offence is 5 years' imprisonment or SBD 10, 000 or both which shows that this is quite a serious offence.

35. **Circumstances/Seriousness of the offending.** The regulations were made for the preservation of public safety in Honiara to contain the riots, burning and looting of shops and other private businesses. The riots and looting between the 24<sup>th</sup> and 26<sup>th</sup> of November had resulted in the scorching of more than 50 buildings and destruction of business houses. The total loss in which I take judicial notice of is based on the Central Bank of Solomon Islands (CBSI) report which stated that the minimum loss is more than SBD 200,000,000 (200 million).<sup>3</sup> Many business people including foreigners, Solomon Islanders who are of Asian origin and indigenous

---

<sup>2</sup> *Preservation of Public Security Regulations (No. 2) 2021 (Legal Notice No. 334) dated Friday 26<sup>th</sup> November 2021*

<sup>3</sup> Central Bank of Solomon Islands "PRESS RELEASE: CBSI ESTIMATES \$227 MILLION MINIMUM LOSS TO THE LOCAL ECONOMY DUE TO THE UNREST ON THE 24TH -26TH OF NOVEMBER 2021" [HTTPS://WWW.CBSI.COM.SB/PRESS-RELEASE-CBSI-ESTIMATES-227-MILLION-MINIMUM-LOSS-TO-THE-LOCAL-ECONOMY-DUE-TO-THE-UNREST-ON-THE-24TH-26TH-OF-NOVEMBER-2021/](https://www.cbsi.com.sb/press-release-cbsi-estimates-227-million-minimum-loss-to-the-local-economy-due-to-the-unrest-on-the-24th-26th-of-november-2021/) (ACCESSED IN DECEMBER 2021)

Solomon Islanders were rendered homeless because of these senseless and inhuman actions. Lives were sadly lost. Thus, it is my considered opinion that any disobedience or breach of the present curfew regulations following the riots should be treated as more serious than the usual trial lock downs or curfews.

36. The lawlessness between the 24 and 27 of November 2021 in Honiara cannot be controlled and contained by our local police officers which required intervention by our neighboring countries based on our government request. The Australian Defence Force (ADF) and Australian Federal Police (AFP) personnel, Police and Correctional officers from Papua New Guinea, Officers from the Republic of Fiji Military Forces, and Officers from the New Zealand Army and Police were brought in to secure the critical infrastructure and to restore normalcy to the increasingly worrying situation in Honiara.

37. **Fear and anxiety.** These events had caused fear to the investors, business owners, and members of the public. The fact that the defendants along with the adult defendants were found together at Ranadi industrial site shows that they did not have any respect for the rule of law and they had taken advantage of the situation thinking that they would not be arrested.

#### Mitigating factors.

38. The mitigating factors for the 17 defendants include the following: early plea, remorse, first offender/no previous conviction with the exception of a few, and their personal circumstances. These factors are addressed in detail later in the ruling.

#### Starting Point

39. I note that the defendants were arrested at Ranadi industrial site close to a number of crime scenes and buildings which were either looted or scorched. I take judicial notice of the buildings or business houses such as the BSP Ranadi branch, Bishop Brothers, Big Chainsaw, Island Enterprises and other nearby shops which were either ransacked or burnt down. In addition to that, the defendants were there in large numbers despite the calls by the Police to stay at home due to the lockdowns and curfews. The fact that these defendants were found close to where the looting or burning took place only a day or hours after the various crimes such as looting and burning were committed must be treated as an aggravation.

40. In such situations the court must adopt a deterrent approach in which the appropriate message must be imparted to the members of the public that breaching of the lockdown/curfew regulations during or shortly after the riots have severe consequences. Thus, it is my opinion that this case must attract an immediate custodial sentence.

41. After having considered all the relevant factors, I am of the view that this case should be considered as falling between serious and medium in terms of its severity. I think a starting point of 30 months' imprisonment is appropriate for all the defendants.

42. **Early guilty plea.** The defendants all entered an early guilty plea. I accept that this is a sign of remorse which saves the courts time and resources of having to resolve the matter by way of a trial. I deduct 10 months for each of them.
43. **First offender.** Most of the defendants with the exception of Alfred Bade are all first time offenders. I deduct 4 months for all the first time offenders. For the purposes of this case, Bade shall be treated as a first time offender, hence, he is also entitled to the same allowance as though he is a first time offender.
44. **Cooperation with the Police and the circumstances of their offending.** The defendants cooperated well with the Police. They also gave their different versions of why they were there at Ranadi in the first place which are duly noted, however, none of the reasons given was a lawful excuse. I deduct 2 months each for each of them for cooperating with the police.
45. **Personal Circumstances and other factors.** The defendants' personal circumstances are mentioned above between paragraphs 3 and 19. Some of these people are parents and breadwinners in their respective families. Most of them are aged between 20 and 30 and at least one of them is a teenager who is 19 years of age. Some are employed and some are not. I take note of all their personal circumstances, and I deduct 2 months for all of them with the exception of the teenager that ought to be given some leniency. I deduct 6 months for the teenager's (Akosi's) personal circumstances.
46. Ms Rusi submitted that one of her clients, Abraham Kela, is suffering from a medical condition known as ulcer, however, it is difficult to confirm that assertion in the absence of a medical report. I will direct the CSSI to look into Mr Kela's case and verify that.
47. Having said that, I am satisfied that 12 months' imprisonment is appropriate for all the defendants with the exception of the teenager. In relation to the teenager (Akosi), I am also satisfied that 8 months' imprisonment is appropriate for him.

### CONCLUSION

45. As I have stated above, these defendants either deliberately or ignorantly disobeyed the curfew regulations as ordered by the responsible authority or person which became effective as from the 26<sup>th</sup> of November 2021 up to the 10<sup>th</sup> of December 2021. I note that the looting and burning of shops started from the 24<sup>th</sup> November 2021 right through to the 26<sup>th</sup> November 2021.
46. I take cognizance of the fact that innocent foreign investors from countries such as Australia, China, Papua New Guinea, and locally owned companies/businesses were heartlessly and unfairly looted or destroyed.<sup>4</sup> I also take judicial notice of the three locals who had tragically

---

<sup>4</sup> This is by way of a judicial notice.

lost their lives during the riots between the 24 and 26<sup>th</sup> November 2021 in Honiara which is a further testament as to the seriousness of the riots.

47. I repeat what I said when sentencing the three juveniles in this case that people should not take advantage of any given situation to commit crimes. That is to say that there is no lawful excuse or justification for the unlawful events that transpired from the 24 to 27 of November 2021.
48. If the offenders had taken heed of the call by the Police, and our leaders to stay at home and to refrain from committing any crime during the riots, there would not be a need for the foreign forces to come to our shores to rescue our nation's capital from further devastation. It is an expensive exercise to send foreign forces to another country to restore law and order, and those countries are expending their tax payer's money to assist us. Without the intervention of the foreign forces, there is no doubt that more lives would have been lost and more properties could have been destroyed. Nevertheless, the magnitude of the destruction that occurred between the 24 and 27<sup>th</sup> November 2021 is beyond imagination, sickening and catastrophic which must never be allowed to happen again in our country.
49. I am aware that some members of the foreign forces will now spend this festive season away from home because of the sad events between the 24 and 27 of November 2021 in which the citizens of this country must be grateful and appreciative of such sacrifices.
50. In view of the above, I hereby sentence the following defendants as follows:

[1] Mr Hare Akosi (teenager) is hereby sentenced to 8 months' imprisonment.

[2] Mr John Meuwa, Mr Anthony Malau, Mr Alfred Badi, Mr Duncan Danita, Mr Grey John Visua, Mr Jimmy Allen Wanefai, Mr Dicky Mewa, Mr Willie Menak, Rodney Keli, Jimmy Rumu (Rumutainia), Mr Gabriel Lusimani, Mr Lency Sala, Mr David Kwaimani, Mr Abraham Kela, Mr Jack Tuwa, and Mr Maxson Dou are hereby sentenced to 12 months (1 year) imprisonment respectively.

### ORDERS

51. The defendants are sentenced as follows:

[1] The defendant Mr Hare Akosia (teenager) is sentenced to 8 months' imprisonment for one count of *Restriction of Movement of Persons in Honiara: contrary to Regulation 5(1), (2) (a) and (b); and 9(1), of the Preservation of Public Security Regulations 2021* and section 3 of the *Preservation of Public Security Act [Cap 27]* and 21(a) of the *Penal Code [Cap*

- [2] The defendants: David Kwaimani, Lency Sala, Gabriel Lusimani, Rodney Kelly, Jack Tua, Willie Menak, John Meuwa, Dicky Mewa, Maxson Dou, Jimmy Rumu Tainia, Anthony Malau, Alfred Bade, Duncan Danita, Gray John Visua, Allen James Wanefai, and Abraham Kela are sentenced to 12 months for one count of *Restriction of Movement of Persons in Honiara: contrary to Regulation 5(1), (2) (a) and (b); and 9(1) of the Preservation of Public Security Regulations 2021 and section 3 of the Preservation of Public Security Act [Cap 27] and 21(a) of the Penal Code [Cap 26].*
- [3] **Pre-Sentence-Custody.** The sentences for all the defendants must be backdated to the 26<sup>th</sup> of November 2021, being the date of first arrest.
- [4] Direct that that the CSSI officers diagnose Mr Kela in relation to the purported ulcer that he has.
- [5] Right of Appeal within 14 days.
- [6] The court so orders.

