



**IN THE SOLOMON ISLANDS MAGISTRATES' COURT  
AT HONIARA  
Criminal Case No. 26 of 2022**

---

**REGINA  
V  
O'BRIAN LAENI**

---

Before: Principal Magistrate Ms. Fatimah Me'ere Taeburi  
Ms. Monica Rehomora (DPP) for the Crown  
Mr. Lazarus Waroka (PSO) for the defendant

Date of Hearing: 21<sup>st</sup> July 2022  
Date of Ruling: 28<sup>th</sup> July 2022

---

**SENTENCE**

---

**Background**

1. The prosecution filed two charges against the defendant Mr. O'brian Laeni on the 29<sup>th</sup> of March 2022. He is charged with two counts of shop breaking contrary to section 300(a) of the Penal Code.
  2. On the 6<sup>th</sup> of July 2022, the defendant Mr. O'brian Laeni pleaded guilty to count one of shop breaking contrary to section 300(a) and section 21 of the Penal Code [Cap 26].
  3. For this charge, he is jointly charged with four others, namely Joe Ririmac, Fred Lui and Junior Ratu. The defendant Junior Ratu has been convicted and sentenced by this court. The cases against the other two co-defendants, Mr. Ririmac and Mr. Lui are still outstanding.
  4. In count 2, the accused is charged alone for breaking into the shop of one Becky Zheng. On the 5<sup>th</sup> of July 2022, the prosecution applied to withdraw this particular charge pursuant to section 190(2)(b)(ii) of the Criminal Procedure Code. I granted the application and discharged the accused.
-

### Agreed facts

5. In respect of the charge that Mr. Laeni admitted, the agreed facts are as follows;
6. He is from Gounasu Village, North Malaita, Malaita Province.
7. He is 15 years old.
8. The complainant is William Kwan. He is from China. He owns the business Low Price Enterprise.
9. On an unknown date between 3<sup>rd</sup> February 2022 and 4<sup>th</sup> February 2022, at about 4am to 5am, the defendant together with Joe Ririmae and some other boys broke into the complainant's shop and stole the following items;
  - a) 1 carton Sara Special;
  - b) 22 cartons Canoe Blue;
  - c) 13 cartons Whiskey Cola;
  - d) 12 bottles Solbrew
  - e) 32 cartons Solbrew Can;
  - f) 15 cartons Saratoga.
10. The group gained entry into the bottle shop by force. They broke into the front window of the shop to gain access. After the window was opened, Laeni and another young boy climbed into the space and went into the shop. They carried the cartons of beers and passed the cartons through the open window to the other boys who were waiting outside.
11. Laeni carried out a total of 7 cartons of beers. He also took \$400 from the cash at the shop. The \$400 was taken from him by the other boys.
12. The value of the items stolen is \$19,530. The police were able to recover 9 cartons of beer. The cartons of beers that were recovered were not specified or valued.
13. I enter conviction against the accused on those facts.

### Personal Circumstances

14. In sentencing him I consider his background. He is a very young man of 15 years old. Both his parents are alive and are living together. However, he does not live with them. He lives with his friends. He has limited education, only reaching grade three in primary school.

### Aggravating Factors

15. I also consider the aggravating factors in this case. The first one is that the break in was committed by a group of boys. An offence committed by a group is always more serious than an offence committed by a single person. There is higher risk of more serious violence and harm when a group is involved in an act of aggression.
16. I consider the loss suffered by the complainant. The loss is quite substantial in my view.
17. There was definitely pre-planning. The fact that about four or more boys came together at the vicinity of the bottle shop at about 4am to 5am shows that there were discussions amongst them prior to the incident. They gained access into the building by breaking into the front window of the shop. This shows that they must have brought the necessary tools to open the window. The group's preparedness means that there was premeditation.

### Mitigating Factors

18. In mitigating, I consider the defendant's young age. He was 15 years old at the time. In sentencing him I consider the provisions of the Juvenile Offenders' Act and I remind myself that I cannot treat him like an adult offender.
19. He has pleaded guilty to the charge. This shows remorse and also saves resources and time that would have been otherwise expended. The fact that he admitted the wrongs committed also shows that there are good prospects of rehabilitation.
- ~~20. He has no previous convictions. In my view, a young offender with a clean criminal history and who admits the wrongs he has committed shows a person who can rehabilitate. For this reason, I think that the court must give an opportunity to this young man to change for the better.~~
21. The defence counsel submitted that the defendant did not receive any form of benefit from the stolen cartons of beers. Counsel submitted that because of his small body size, he was directed and used by the other older boys in the group to climb into the window of the shop. He was simply following the instructions given by the others. Quite surprisingly, the prosecution made no submission in respect of this issue. When an offence is committed by a group of people, the level of participation of an individual accused person in the incident is a relevant factor in sentencing. Therefore the prosecution must consider and address the issue. In this case, the crown agreed that the \$400 cash taken by this defendant from the bottle shop was given to the older boys in the group. In the circumstances, I accept that although this defendant played

a major role in the stealing and taking away of the beers, he was simply following instructions from the others and that he did not benefit in any way from the criminal act. I accept that his participation and culpability in the offending is minimal compared to the others.

22. I consider that the accused has been remanded in custody since the 29<sup>th</sup> of March 2022. This means that he has been remanded for 3 months and 29 days.

### **Maximum Penalty**

23. In deciding on the appropriate sentence to impose in this case, I also consider the maximum penalty for the offence of shop break which is provided in section 300(a) of the Penal Code. The maximum punishment is 14 years imprisonment.

### **Sentencing Tariff**

24. I am grateful for the comparative sentences submitted by the counsels. In the case of *Regina v Bona*,<sup>1</sup> the accused and his co-defendants broke into the complainant's shop by cutting the cooper walling. They stole goods and cash of a substantial amount. The accused Mr. Bona was 17 years old at the time, but he was not a first time offender. He pleaded guilty. The court imposed a sentence of 10 months imprisonment.
25. In the case of *Regina v Zoni*,<sup>2</sup> the accused and others broke into a warehouse. Mr. Zoni played a major role in the offending. He climbed a mango tree to get to the roof of the building. Once he is on top the roof, he cut the cooper roofing and gained access into the building. The group stole properties of a substantial value. He pleaded guilty to the charge. He is a first time offender. The court sentenced him to 14 months imprisonment.

### **Appropriate Sentence**

26. In the circumstances of the case, I am satisfied that the appropriate sentence is 12 months imprisonment. This includes the time spent in custody.
27. I make these remarks directly and specifically to the accused. I advise that you learn from this case and refrain from repeating the same mistakes again. There is so much

---

<sup>1</sup> *Regina v Bona* [2017] SBMC 6; Criminal Case 511 of 2016 (21 March 2017)

<sup>2</sup> *Regina v Zoni* [2016] SBMC 10; Criminal Case 655 of 2015 (25 April 2016)

in life than spending time behind bars. I also advise that after you are released from prison, to return to your parents' home. At this age and stage of your life, it is vital that you receive teachings and nurturing from your parents. The responsibility that parents acquire to teach, nurture, care and love their children is a blessing that is given by God. Hence you must give the opportunity to your parents to fulfil their responsibility to you. Finally, I advise that after you serve your sentence to choose your friends carefully. At this stage of your life, the pressure and impact from your peers or friends is very influential. It is for this very reason that you must be careful with whom you surround yourself with. If you associate yourself with the wrong group it is highly possible that you will engage yourself in activities that will not be fruitful for yourself. Recognise your full potential and capabilities and build yourself for the better.

**ORDERS:**

28. The orders of the court are as follows;
- a) The Accused is convicted on one count of shop break in contrary to section 300(a) of the Penal Code;
  - b) The Accused is sentenced to 12 months imprisonment;
  - c) Time spent in custody is included.
29. Right to appeal within 14 days.

Dated this 28<sup>th</sup> Day of July 2022

