

**IN THE CENTRAL MAGISTRATES COURT  
IN THE SOLOMON ISLANDS**

In the Criminal Jurisdiction

**BETWEEN: REGINA**

**V**

**AND PAUL BROWN**

Before: Emily Z Vagibule Pakoa

PPD: PC Abel Maelanga

Defence: Ms Delilah Kukura

Date of sentencing submissions: 27<sup>th</sup> of July 2022

Date of sentence: 1<sup>st</sup> of August 2022



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**SENTENCE**

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1. Mr Paul Brown, you were charged for one count of Domestic Violence [Physical Abuse], which is contrary to section 4 (1) (a) of the Family protection Act 2014 as read with section 58 (1) (2) of the Family Protection Act 2014.
2. I arraigned you on the 27<sup>th</sup> of July 2022 for the charge at hand, and therefore recorded a guilty plea on your part. On the same day, I had the opportunity to peruse the agreed facts tendered by parties. Hence, it is to that effect that I now enter conviction against you.

*Agreed facts*

3. For purposes of this sentence, I will outline the facts as follows:
4. The Accused in this matter is you, Mr Paul Brown, a native of Tanagai, West Guadalcanal.
5. The complainant in this matter is Ms Pauline Tandakusu, your wife.
6. On the 5<sup>th</sup> of May 2022, you were drinking alcohol with your friends, when suddenly the victim approached you and swore at you, and thereafter started raising her voice at you.
7. On the night of 5<sup>th</sup> May 2022, you and the victim got into an argument whereby you slapped the victims face with your hand. It was because of the victim's action earlier that day that provoked you into doing what you did.
8. The victim was not happy with what you did, hence reported you to the police.
9. Following that, you were charged for the offence at hand.

### *Maximum penalty*

10. The maximum penalty for the offence at hand, is that of 30,000 (\$30,000.00) penalty units or 3 years imprisonment of both<sup>1</sup>. I am sure that you would agree with me, that the more serious an offence is, the higher the maximum penalty. Hence, it is accurate to say, that the seriousness of an offence is prima facie reflected through what the law stipulates as its maximum penalty.
11. In terms of sentence, I fully concur that maximizing the penalty of any offence, should be reserved for the very serious types and nature of offending. While this is well settled, it does not warrant leniency.
12. The victim in this case is your wife, and also the mother of your 10 children. The actions giving rise to this offending speaks volumes of who you are as a husband and father of 10 children. As seen in the facts, you were drinking alcohol with some men, when you were approached by the victim in what was described in your sentencing submissions as unacceptable. It was because of the approach taken by the victim that you were provoked into doing what you did. Prosecution in their brief oral submissions, highlighted that you are usually abusive towards your wife whenever you are under the influence of liquor.
13. While many tend to blame it all on alcohol, it must be understood, that alcohol is never the cause of domestic violence. I hold the view that alcohol is just something that triggers abuse. Hence, one may ask, "What is the true cause of domestic violence?"
14. Interestingly, we should all note that the primary cause of domestic violence, is the imbalance of power within all domestic relationships.
15. In all domestic relationships, it is always the weaker parties that tend to fall as victim to the threats and abuse inserted by the other.
16. While the Family protection Act 2014 (FPA 2014), is seen by few, as a timely law, it still fails to fully address its purpose, or in other words, still ineffective. I said this on the basis that people still have a limited understanding on what the FPA 2014 was designed to address, and how impractical some of its sections are.
17. All parties in a domestic relationship, have the right to live a life free of violence, whether it be physical, psychological, sexual or financial abuse. To achieve this, we need to let go of the mindsets that give rise to power imbalance and violence.
18. Mr Brown, both you and the victim, should and must respect each other's views, for the wellbeing of your marriage and children. At the age of 52, you should be living a life of example to your 10 children.
19. Ms Kukura has referred me to a number of domestic violence cases and the sentences imposed on them. I note how the sentences range between a bound over, fine and imprisonment. On the other hand, it is well settled that cases must and should be dealt with based on their own set of facts.
20. From what is before me. I have gathered the following as aggravating in nature:
  - You were under the influence of alcohol when you committed the offence at hand.
  - The offending occurred at night time.
  - You were 52 years old at the time of the offending. Clearly, you did not act your age.
  - You committed the offence on someone who looks up to you for protection and support. Your actions have somewhat questioned the trust in which the victim should have in you.
21. I have compared these factors to those identified in the cases I was referred to, and while the case at hand is somewhat less serious, I am still bound to impose a sentence that is not too lenient and at the same time, not too harsh.

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<sup>1</sup>Section 58 (2) of the Family Protection Act 2014.

22. Furthermore, I have also gathered some factors which I refer to as the mitigating factors, which are as follows:

- Your early guilty plea, which no doubt saves the courts time and resources. This early guilty plea indicates how you have taken responsibility over your wrong doing and your willingness to face justice. Your early guilty plea also reflects your remorsefulness towards your actions.
- You have been faithful in attending your hearings, with that I credit you for cooperation.
- You are a first time offender who has held a clean criminal history until I entered conviction against you.
- You are a family man with 10 children and a wife to support.

23. With these factors in mind, I wish to highlight the need to refrain from using violence as a means of settling domestic issues. Your wife is your partner, not your property. You should render love and protection to her.

24. I hope this experience has taught you a lesson that should change your mindset, from that of a domestic violence perpetrator, to that of a loving, caring and understanding husband and father. The FPA 2014 is a mechanism that aims to assist in deterring the use of violence in our homes and relationship, and while it has its shortfalls, it comes back to us as individuals to collaborate in ensuring a paradigm shift from the attitudes that give rise to domestic violence, to that of a violence free environment, especially in the domestic setting.

25. In terms of sentence, I fully concur that a fine is appropriate. The public needs to understand that slapping another person, especially within a domestic relationship, is never a means to conform to. While a bound-over can also be considered as opposed to a fine, I must warn you and all likeminded offenders, that with any form of violence, whether it be a single slap or name calling or financial draining, this court will not tolerate such actions.

26. At this context I will now refer to the case of Joel Likilia and Allen Kokolabu v R, where the court uttered the following sentiments:

*Sentencing is not a process that follows exact mathematical rules. Circumstances and people vary and it is undesirable to consider such comparisons as more than a very imprecise guide (Emphasis added)*<sup>2</sup>.

27. I earlier sentenced someone to a fine of \$600.00, however, I note that the offending in that case, was quite serious than the one at hand.

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<sup>2</sup> [1998/89] SILR

28. Hence, after considering the entirety of this matter, I now order as follows:

**ORDERS:**

- (i) **Mr Paul Brown for the offence of Domestic Violence [Physical Abuse], which is contrary to section 4 (1) (a) of the Family protection Act 2014 as read with section 58 (1) (2) of the Family Protection Act 2014, you are hereby sentenced to a fine of SBDS400.00, which is due by the 5<sup>th</sup> of August 2022, in default of payment, 20 days imprisonment.**
- (ii) **I make further orders that both you and the victim to undergo counselling which is to be facilitated by the priest in charge of Tanagai Parish.**
- (iii) **Right of appeal applies within 14 days of the date of this order.**

**Dated this 1<sup>st</sup> day of August 2022.**

