

IN THE CENTRAL DISTRICT MAGISTRATE'S COURT
OF SOLOMON ISLANDS



Criminal Jurisdiction

Criminal Case No. 305 of 2022

On the 25th day of August 2022

BETWEEN: REGINA **Complainant**
AND: JUNE ORIANA **Accused**

Mr. Pitasua for the Police Prosecutions
Ms. Rusi for the Accused

SENTENCE

The Accused appeared before this Court on 19th day of August 2022 in relation to the amended charge filed on 10th August 2022. The charge is Possession of utensils for brewing liquor contrary to section 50(2) (b) of the Liquor Act. The particulars of the charge states;

That June Oriana at Wind Valley, West Honiara in the Guadalcanal Province on 3rd November 2021, without the written approval of the responsible Minister did have on her premises implements and utensils used for brewing liquor.

When she was arraigned on the charge on 19th August 2022, she admitted the offence and pleaded guilty to the charge.

The facts that constitute the charge are agreed on by the Prosecution and the Defence Counsel on instructions from the Accused. They are as follows;

"On Wednesday 03rd November 2021 white (sic) River Police officers on mobile patrol received a report despatched (sic) from a complainant.

The patrol team upon the report proceed (sic) to White River, Wind Valley area around 1:30 pm. Upon arrival the officers approached directly the suspect June Oriana and confiscated the following utensils at her resident (sic).

- 1 x white bucket 15 litres full of home brew, destroy (sic) at scene.
- 1 x delight hard navy biscuit full of home brew.
- 1 x red bucket full of home brew.
- 1 x blue bucket full of home brew, destroy (sic) at scene.
- 1 x empty filma container 5 litres.
- 3 x lin sugar green label.
- 4 x mitri phol sugar orange label.
- 1 x mauripan instant dry yeast 500g.
- 2 x mauripan instant dry yeast 100g.

- 1 x red funnel.
- 1 x red tray.
- 1 x empty yellow solrice bag.
- 1 x red plastic bag containing szeba empty bottles 330mls.
- 3 x open packet mauripan 500g and empty packets of sugar.

The defendant was formally arrested and detained in custody.

On the 04th of November 2021, the defendant voluntarily participated in the Record of Interview and made admissions."

It is clear from the facts that the motive for having in her possession the utensils was for brewing of illegal liquor - kwaso and as submitted by Counsel, to earn money to support her and her two daughters. She should have and now realizes that this is an unlawful or illegal way of earning money.

The legislatures made it illegal under section 50(2) (b) of the Liquor Act for any person to have in his or her possession utensils for brewing of liquor and prescribed the maximum penalty for this offence at 30,000 penalty units or 3 years imprisonment.

This offending is aggravated by a number of factors.

This kwaso drink is believed to be one of the main contributors to most of the anti-social behaviour in our communities. It has contributed in part in most community problems such as disturbances and various criminal offences.

It is also believed to be a cause of health problems to those who consume it. It is common knowledge that its cheap production does not include safety and quality considerations of the drink.

These problems would not occur if people do not produce this illegal liquor. It can be easily assumed that those who produce this illegal liquor do not care about the health and social problems associated with the consumption of this illegal liquor but only care about how much money they can earn at the end of the day.

The Court has a responsibility to discourage the illegal production of kwaso and therefore, will impose punitive and deterrent sentences to send the message clear to the public that kwaso production is an illegal activity that the courts will not tolerate.

The Accused pleaded guilty to the offence. I accept that this plea was entered at the first available opportunity. The plea has saved the court's time and resources. It also indicates the Accused's remorse and her willingness to face the consequences of her action.

I note that the Accused is 46 years old and a single mother with 2 adopted daughters who depend on her for financial and welfare support. I note that she had finished from formal employment in 2020.

I accept that she had co-operated with the Police during the investigation and when interviewed by Police, she admitted having possession of the utensils for brewing of kwaso. This is an early

admission of guilty which she later confirmed by the guilty plea entered as mentioned above.

The Defence asked the Court to take into account delay as the incident occurred on 3rd November 2021 and it took about 9 months for the case to reach the Court. To this, the Prosecutor submitted that the reason for the delay was because of COVID-19 and the subsequent lock-downs. I accept the explanation by the Prosecutor and therefore delay has no weight on the sentence to be imposed in this case.

The Defence asked the Court to invoke section 35 of the Penal Code and dismiss the charge without conviction. The maximum penalties prescribed for this type of offending reflects how serious Parliament viewed this type of offending.

I am of the view that a punishment is inevitable in the circumstances. She should have known the consequences of her action. She has to bear the blame for her unlawful action.

The Accused is convicted on her own guilty plea.

Having considered the facts, the aggravating factors the plea of guilty and the personal circumstances of the Accused, the seriousness of the offending and the need for punishment and deterrence, I am of the view that a non-custodial sentence is still appropriate in the circumstances of this case. I impose a fine of \$2,000.00 against the accused. In default, three months imprisonment.

The fine is payable by 4:30 pm on September 26th, 2022.

I further order that all the items or utensils confiscated during the raid and search be forfeited to the RSIPF and be destroyed.

THE COURT



Ricky Iomea - Deputy Chief Magistrate