



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

Criminal Case No. 273 of 2022

REGINA

-v-

GEORGE TALOGA SURI

Date of Plea: September 19, 2022
Date of Submissions: October 3, 2022
Date of Sentence: October 10, 2022

Mrs. Elma R. Hilly for the Crown
Mr. Joses Duddley for the Defendant

SENTENCE

Introduction

- [1] The Defendant, Mr. George Taloga Suri, is charged with an offence of, Election Expenses and Donation, contrary to section 125 (2) of the Electoral Act as read with section 69 (1) (a) and (b) of the Electoral Act 2018. He admitted to the offending and entered a guilty plea on 19 September, and a criminal conviction was registered against him. This are the reasoning for his sentence.

Brief facts

- [2] The facts reveal that on, April 19, 2019, the Electoral Commission published the election results in the Gazette. The Gazette Notice confirmed the defendant's status as a candidate for the Baegu/Asifola Constituency in Malaita Province. The defendant came fifth out of six contestants.
- [3] As required by section 69 of the Electoral Act 2018, a candidate in an election must submit a statement of account to the Chief Electoral Officer (CEO). The statement of account specifies all expenses incurred by the candidate during the election campaign, and the source of all funds that were used to meet those expenses. The statement of account must be submitted in an approved form specified in s. 9A of the Electoral (Amendment) Regulation 2019 and submitted within 90 days after the publication of the results in the Gazette.

- [4] The 90 days' period lapsed on July 20, 2019, which was also the deadline to submit the statement of account to the CEO. During this period, the commission made its press release through service messages on the local radio station (SIBC), published articles on the local newspaper (Solomon Star News, and Island Sun News), posted on its social media page, informing and reminding those candidates to collect the appropriate forms at the SIEC Office or via email and to fill them out.
- [5] The first press release was made on July 4, 2019 by the Commission, the second on July 11, 2019, and the third on Jul 18, 2019.
- [6] The Commission did not receive any completed statement of account form from the defendants despite all three press release. The defendant failed to submit his statement of account within and after the 90 days' period until date. The former CEO of the Commission, Mr. Mose Saitala, wrote to the former Police Commissioner and provided a list of candidates who failed to comply with the requirements. The list of candidates was recorded by the Commissioner and referred to the Police for further dealings. The CEO confirmed that the defendant was one among the list of those candidates.
- [7] On July 22, 2022, the defendant was formally charged with one count under sections 125 (2) and 69 (1) (a) and (b) of the Electoral Act 2018.

The objective of the Relevant Provision

- [8] The objective of sections 69 and 125, are among other things, to ensure transparency and accountability by candidates during the campaigning process, with the overarching goal to combat unexplained wealth, corruption, unethical and improper conducts, and dishonorable dealings. It is a responsibility attached to any campaigning candidate, and the defendant was vested with that obligation but refused to comply, which led to the offending. Accountability, taking ownership of duties, and transparency are some of the key components in any democratic nation, and the purpose for which cannot be overemphasized.

Aggravating Factors

- [9] Although being informed through the Solomon Islands Broadcasting Corporation (SIBC), social media pages, and other platforms, including his personal knowledge of the requirement as a campaigning candidate during the election process, he deliberately failed to disclose his election expenses to the relevant office.

Mitigating Features

[10] The following are his mitigating factors; first, he entered an early guilty plea at the earliest opportunity, which has reserved the expenses and resources if the matter proceeds through trial. His admission of guilt has demonstrated a great remorse and acceptance of the wrong that he has made, as well as, accepting any form of punishment that the court would impose on him. Second, he is a first offender and, the sole breadwinner for his family. He has been a law-abiding citizen for the past 50 years, and involved in leading his community positively.

Case authorities

[11] This is a relatively novel legislation and the Defendant is among the first people who were charged under the relevant sections. I could only locate three cases, which the Magistrates' court had dealt with and issued pertinent sentences. First, *R v Kabolo*¹ the defendant pleaded guilty to an offence under section 125 (2) of the Electoral Act as read with section 69 (1) (a) and (b) of the Electoral Act 2018. The court had found that the defendant blatantly failed to submit his statement of account of his election expenses and the source of all funds used to meet the election expenses, although numerous messages and notices were broadcasted on the radio, newspaper, and social media platforms. The court having assessed his case, imposed a \$5,000 (5,000 penalty units), in default, six months' imprisonment. Second, *R v Tolei*² the defendant was charged and pleaded guilty to an offence under section 125 (2) of the Electoral Act as read with section 69 (1) (a) and (b) of the Electoral Act 2018. The court remarked that, despite the messages broadcasted on the local radio station, published articles in the local newspapers, and posted on the Electoral Commission's social media page to inform and remind candidates to collect the appropriate forms at the SIEC office or via email and fill them out, the defendant failed to do so. The court having considered the totality of facts, submissions and the interest of justice, imposed a fine of \$5,000 (5,000 penalty unit) or in default, 6 months' imprisonment. Third, *R v Bakō*³ the defendant admitted to the offence of failure to submit a statement of accounts specifying expenses incurred during his election campaign. The court found that, there was extenuating circumstances, in that that defendant filled-in and submitted a wrong form with the wrong authority, which differentiated his case from blatant failure without any attempt. Thus an order under section 35 of the Penal Code was invoked, dismissing the case absolutely without entering conviction.

¹ CMC Criminal Case No. 269 of 2022

² Criminal Case No. 333 of 2022

³ Criminal Case No. 235 of 2022

Sentence remarks:

- [12] The offence was created to ensure that answerability and transparency is presented for the funds incurred by the candidate during the election campaign, and as such, leaders who wished to run for election must acknowledge the responsibilities that the status of being a "candidate" entails, which would to some degree demonstrate the character and personality of a leader, if he were to be voted into Parliament.
- [13] Notwithstanding whether one is successful or not, a leader must always be accountable to the laws, principles, duties of his office, or any position or status that he or she assumes, including upholding the general 'integrity'.
- [14] I am sure that the defendant has learned from his mistake and will take constructive steps to improve himself, to avoid repeating this type of behavior in the future.

Comparative sentencing, and starting point

- [15] The present case is more akin to **Kabolo and Taloga**; I do not find any extenuating factors that would warrant this court to dismiss the case. Instead I see it fit to impose a fine sentence today, mostly for two reasons, one, this is a regulatory and strict liability offence, and two, because the defendant knew about the notices and messages published on radio, newspaper and social media platforms, yet chose to ignore them. There is nothing to say or suggest that he attempted to rectify the situation after committing the offence. Accordingly, having considered the totality of facts, the aggravating factors, I hereby fix a starting point at \$6000 or 6,000 penalty units.
- [16] For his mitigation, I deduct a total of 25% or \$1,500 to reflect early guilty plea, and a further \$1,500 is deducted to consider him being a first-offender, prior good character and, a sole breadwinner for his family. As such, the resulting sentence is \$3,000 or 3,000 penalty units.

Whether to impose \$100, for each day the offence continues

- [17] It is acknowledged that the offence was committed in July 2019, but the defendant was not charged until 2022. This is some considerable amount of delay, which has nothing to do with the defendant. Therefore, if he is to pay the amount of \$100.00 from July 2019 to October 2022, would total to an approximate amount of \$123,300.00, which in my view, excessive. While I do agree that as a potential Parliamentarian, or leader, the defendant should know better and take proper steps to comply with the laws and procedural requirements, including rectifying this issue when it was brought to his attention, punishing him with a fine of that amount is beyond the scope

of deterrence as far as the seriousness of offending is concerned, and the crushing effects would be enormous.

- [18] Although having stated the above, I am conscious of the mandatory provision under s. 125 (2) (a) and (b), which has the word "and" which would construed to mean, consecutively. Therefore, noting the approximate maximum amount of \$123,300.00 for every \$100.00 each day, and weighing with the substantive undue delay to charge and prosecute the matter since 2019, I hold the view that, it is only fair and just to remove the amount of \$121,300.00, except the \$2,000.00.

SENTENCE ORDERS

- (1) The defendant, Mr. George Taloga Suri, is sentenced to a fine of \$5,000.00 or 5,000 penalty units.
- (2) The fine is payable with 28 days of this day, or on November 11, 2022 at 4:30pm.
- (3) In default, 6 months' imprisonment.
- (4) 14 days' right of appeal applies.
- (5) Order accordingly.

BY THE COURT
MR. LEONARD L. GUTHRIE
Principal Magistrate
Central Magistrates' Court

