
SENTENCE

1. The Defendant Allen Eniti, is charged with three (3) traffic related offences which were alleged to have occurred on the 12th of February 2022. The offences as reflected in the charge are as follows:
 - (i) Count 1: *Careless driving, contrary to section 40 (1) of the Road transport Act;*
 - (ii) Count 2: *Driving without a valid driver's license, contrary to section 20 (1) of the Road Transport Act;* and
 - (iii) Count 3: *Taking vehicle without authority, contrary to section 59 (1) of the Road Transport Act.*
2. On the 8th of November 2022, guilty pleas were entered for counts 1, 2, and a not guilty plea for count 3. On the 30th of November 2022, the not guilty plea was vacated and a guilty plea was entered. On the same day, I received a copy of the agreed facts and the written sentencing submissions by parties and other sets of documents which parties deemed vital to their case.
3. Mr Eniti is an officer working under the Royal Solomon Islands Police Force. The incident was alleged to have occurred during the peak of the covid-19 out-break. I see in both his sworn statement and sentencing submissions how there was a shortage in manpower within the RSIPF and the efforts he had to put in during those critical times. I note from his sworn statement that he was dropping off food rations to police officers stationed at some of the check points between Alligator to Poha.
4. At paragraph 8 of his sworn statement that after dropping rations for the officers stationed at Poha, he dropped one of the officers at 7-up, Agape area, at Tandai and was intending to proceed back to his family at Koloale, however, he received a call from Staff Sergeant Kalu, Quarter Master of the Logistics Department at Rove Head-Quarters, to go and check on the solar light batteries at the Tongs check-point. Hence, it was when he was driving up to Tongs that he became sleepy and ended up hitting the electric pole, and eventually collided onto another oncoming vehicle.
5. The quotations for the damages incurred by both vehicles was attached by Mr Tonowane. Obviously, the cost of repairing the vehicle driven by the defendant, should be taken out from his own pockets. I am told that arrangements have been made with the owner of the other vehicle to settle the damages out of court. I am unsure if the same arrangements have been done for the government vehicle involved. In absence of such arrangements, all innocent tax payers will have to meet the expenses vital for repair.
6. First and foremost, this is what all public servants must bear in mind. We should handle government property with care and due diligence.
7. As per the facts, the Defendant's driving license had long expired and moreover, he was not permitted to drive the said vehicle.
8. In their endeavour to address the prevalence of these offences, Parliament made tremendous changes to the maximum penalties concerned. For purposes of this sentence, I outline each offence and their maximum penalties as follows:
 - (i) Careless driving: 5000 penalty units or 6months imprisonment or both;

- (ii) Driving without a valid driver's license: 5000 penalty units or six months imprisonment or both; and
 - (iii) Taking vehicle without authority: 5000 penalty units or six months imprisonment or both.
9. It is only obvious to state, that each of the above maximum penalties no doubt speaks volumes of how our legislators view the seriousness of such offences.
 10. For the offence of careless driving, all drivers must bear in mind the duty of care they owe to all road users including themselves. Road accidents occur every year, and regardless of that, we still have very careless and inconsiderate people driving motor vehicles along our roads. It comes back to the manner of law enforcement within this country. Preaching the number of arrests relating to traffic offences is never the point, but rather the shared and collective efforts towards terminating the attitude problems giving rise to traffic offences.
 11. I call upon the RSIPF's traffic department and the RSIPF as a whole to effectively address the cause allowing for prevalence in traffic related offences to avoid arrests that are boosted about in the media.
 12. For the case at hand, I note that the Defendant was feeling sleepy due to the limited rest he had, I also note the time of the offending, where the human body is in dire need of rest. I am told through his sworn statement and his sentencing submissions, that he was intending to return to his family at Koloale, this was when he was called by S/Sgt Kalu, the Quarter Master of the Logistics department at Rove Head-quarters, to go up to Tongs check point and check on the solar light batteries. This piece of information alone if true, is enough to charge this Quarter Master for permitting an unlicensed driver and to acquit the Defendant from the count of taking vehicle without authority.
 13. I am not told if the Quarter Master called the Defendant to walk with his two feet all the way to Tongs to check on the solar batteries, or if he was only asked to accompany another officer who was commanded to drive the said vehicle. The only evidence before me is that the Defendant was driving the white hilux in question and that at some point, the Quarter Master did allow him to drive the said vehicle given the shortage of officers at that time.
 14. I encourage the Crown that in all their submissions, evidence must also be provided to support their position. In this case, I expect a sworn statement from the Quarter Master and not just the quotation for the expense for damages. Parties please note, that court decisions are made based on sworn evidence and not on mere submissions and words uttered from the bar table.
 15. I encourage the use of sworn statements or calling persons concerned to testify under oath.
 16. In terms of the offence of driving without a valid driver's licence, the Defendant as an officer of the RSIPF has defied the very purpose of law enforcement when he chose to do something he knew was an offence. I understand how critical it was for the country at that time, but his driver's license had long expired since 2019. To renew ones driving license is only \$103.00, had you renewed your license in mid-2021, then your license would still have been valid.
 17. In relation to count 3, there seems to be opposing facts, and that the Crown could have done better by providing a sworn-statement by the Quarter Master to support their submission.

18. Note that I am yet to decide on whether or not a conviction should be imposed on the defendant. Firstly, while I acknowledge the application to invoke section 35 of the Penal Code and the efforts put in by the Defendant, all the offences pleaded guilty to, are strict liability offences, hence the actions of the Defendant alone, are enough to support a conviction.
19. I refer to the case of **Regina v Tapoika**¹, and wish to emphasis on the fact, that when the court chose to invoke section 35 of the Penal Code absolutely, then it means that the defendant is saved from facing any form of punishment, such as a bound over period, a fine and or imprisonment. To invoke section 35 conditionally, would only mean that the defendant is to enter a good behaviour bond.
20. Section 35 of the penal Code states as follows:
*Where, in any trial, the court thinks that the charge against the accused person is proved but is of opinion that, having regard to the character, antecedents, health or mental condition of the accused. Or to the trivial nature of the offence or to the extenuating circumstances in which the offence was committed, it is not expedient to inflict any punishment, the court may, without proceeding to conviction, make an order dismissing the charge either absolutely or conditionally*².
21. With the above proviso, I am of the view that the circumstances of the offending while in the course of a greater good, cannot just go unpunished. Police officers need to be reminded that apart from being human, they are looked upon by the public as the living epitome of the law, hence they must reflect lawfulness in all aspects of their life.
22. Having said this, I now enter conviction against the Defendant's own guilty pleas.
23. I must emphasise that this case must be dealt with based on its own set of facts and circumstances. I acknowledge counsels for providing me with case authorities to assist in terms of comparative sentencing, however, the outcome of this case lies solely on its own circumstance and the need to preach deterrence, rehabilitation and retribution.
24. I consider the mitigating factors before and the aggravating factors involved.

Mitigating factors;

- *Early guilty plea;*
- *Remorse*
- *Cooperation and faithfulness in turning up to court*
- *Personal circumstances;*
- *And a first time offender*

Aggravating factors

- *Seriousness of offences as reflected through their respective maximum penalties;*
 - *The time of the offending.*
25. Upon weighing the entirety of this case, I am of the view, that a fine is sufficient to address the principles mentioned earlier.

¹ [2020] SBHC 11; HCSI-CRAC 693 of 2019 (10 February 2020)

² Section 35 of the penal Code of Solomon Islands

26. Note also, that sentencing in this regard does not involve a fixed mathematical formula, but depends entirely on the facts and circumstances involved. hence, to reflect the deductions done for the mitigating factors involved and the additions for the aggravating factors, the following is reached

Count 1: range from 1000-4000, final sentence is S2,500.00

Count 2: range from 1000-2000, final sentence is S1,000.00

Count 3: range from 800-1500, final sentence is S900

ORDER:

Mr Allen Eniti, for the offence you have pleaded guilty to and convicted for, I hereby sentence you as follows:

- (i) **Count 1, a fine of S2,500.00 due by 31st march 2023, in default six months imprisonment;**
- (ii) **Count 2, a fine of S1,000.00 due by 31st march 2023, in default 40 days imprisonment;**
- (iii) **Count 3, a fine of S900.00 due by 31st march 2021, in default 40 days imprisonment**

Total fine of: S4,400.00 due by 31st march 2023.

- (iv) **Right of appeal applies within 14 days from today.**

Dated this 2nd day of December 2022

Emily Z Vagbule Pakoa (Mrs)
Magistrate of the first class

