

**IN THE CENTRAL MAGISTRATE'S COURT)
OF SOLOMON ISLANDS AT HONIARA)
(Criminal Jurisdiction)**

Criminal Case



REX

-v-

THOMAS PEGO

Date of plea: August, 16th, 2024
Date of hearing: December, 11th, 2024
Date of sentence: January, 21st, 2025

Miss. Sabrina Habu for the Prosecution
Mr. Vincent Junior Nomae for the Accused

SENTENCE

Introduction

1. On August 16th 2024, the Accused; Mr Thomas Pego pleaded guilty to the offence of Arson, contrary to section 319 (a) of the Penal Code (Cap. 26). His plea was done voluntarily, and confirmed by his Counsel Mr Nomae. I therefore enter conviction against his own plea.
2. The Summary of the Agreed facts was finalized after a newton hearing was conducted to ascertain the age of the accused. The court delivered its ruling confirming that the accused was 18 years or older at the time of the offending.
3. On December 11th, 2024, matter was listed for hearing on the sentencing submission by the prosecutions, and mitigations by the defence Counsel. It was then adjourned for this Court to deliver his sentence.

Summary of Agreed facts

4. The Accused: Mr Thomas Pego hails from Kuruma Village, Totomba area, North Guadalcanal. He is 18 years or older at the time of the offence. The complainant is Mr Thomas Lapae. He is the father of the accused.
5. On the 2nd of July 2024 between 1:00PM and 2:00PM, the accused willfully and unlawfully set fire to the complainant's house, which was constructed with bush materials. The accused had been drinking since the 1st of July 2024 and only had just returned home the morning of 2nd July 2024. The accused asked his mother, Anna Melo, to request the outstanding amount of \$400.00 and a shell money owed to him by his brother - in - law, Nolo, as part of the compensation for impregnating his younger sister. The accused was angry with his mother Anna Melo after she failed to bring

back \$400.00 and a shell money from his brother – in – law Nolo for impregnating his younger sister.

6. The accused set the complainant's house on fire by lighting coconut leaves with a machete and placed the lit coconut leaves against the wall on the outside of the house. The complainant's house was completely burned to the ground. The total Value of the complainant's house is about \$4000.00.
7. A reconciliation ceremony was conducted by Chief Juliu Rava (Tribal Chief of Lathi Sub-tribes) mandated that both parties to settle this matter with traditional settlement where 30 people were present. The compensation worth of \$7,300 has been paid by the accused's wife on behalf of the accused, Mr Thomas Pegoa on the 12th of July 2024 to the complainant and his wife and thereafter their relationship has been restored and peaceful.
8. The accused was remanded in custody on the 5th of July 2024. Following the remand, orders were made for the accused to be transferred and facilitated at Rove Correctional Services. The accused has pleaded guilty to the charge of Arson on the 16th of August 2024.

Prescribed Punishment under Penal Code

9. *Arson* is categorized as one of those serious offences under our Penal Code. It carries a maximum sentence of life imprisonment. A unique one that is akin to that of Murder¹. It is clear to state that the prescribed term depicts our law-makers total abhorrence against burning of buildings or structures owned by another person without their consent.

Aggravating factors

10. I find the following as aggravating factors in his case: -
 - A. Significant damage to property – The complainant's house was completely burnt to the ground. It is a loss which apparently takes time, expense and labor to rebuild it. The complainant and his wife were left in a devastated position of being displaced or homeless.
 - B. Significant financial loss for the complainant – The dwelling house values around \$4000.00. The complainant stated in his victim impact statement that he lost money he had spent on building the house, and on some properties that were burnt in the house.
 - C. The Accused was voluntarily intoxicated during the commission of the offence.
 - D. The complainant is 65 years old, he is a vulnerable member in our society. The fear and trauma that the complainant and his wife experienced will be enormous, as stated in his Victim impact statement.

¹ Contrary to section 200 of the Penal Code (Cap. 26)

Case Authorities

11. Counsels also referred the Court to some recent sentences on arson to show the current sentencing trend set out below:
12. In *R -v- Sasa*², the accused pleaded guilty to a charge of Arson. The facts are that the accused went to the victim's place of residence and set fire to their home based leaf house kitchen, which was situated near their dwelling house. The Accused was sentenced to 6 months' imprisonment, fully suspended for 2 years.
13. In *R -v- Isa v Regina*³ the accused pleaded guilty to one count of assault causing actual bodily harm and arson. He was sentenced to 15 months imprisonment for assault causing and 4 years for arson. He appealed to the High Court against sentence, and the High Court allowed the appeal against the orders to have the sentences served cumulatively. Quash orders of the Magistrates' Court to make both sentences cumulative and substituted with the order that they be served concurrently. The total sentence to be served accordingly shall be 4 years. The accused was 32 years old at the time of the commission of the offence. He was also under the influence of alcohol when he committed the act.
14. In the case of *R -v- Tapalia*⁴ The accused person entered guilty pleas on three (3) counts of Arson. The accused burned three (3) dwelling houses in early hours while it was still dark, one owned by his Mother in-law and other two owned by his brother in-laws. Victims had already left due to fear from threats made by the accused but personal belongings were inside the buildings. He did so because he was angry at them for damaging his food crops. The Court having assessed the totality of facts and factors imposed a sentence of 3 ½ years' imprisonment for each count to be served concurrently.
15. The case of *Regina v Mouala*⁵ is about three young defendants who are between 16 – 18 years of age. The facts of this case is that these three young offenders set fire to the Su'u School Administration building between the 1st and 2nd of May 2002. The whole school administration building was scorched to the ground, with a total of \$355,000 in damage. The Court make reference to s16 of the Juvenile Offenders Act which provides options that the Court can consider in dealing with these young persons. The Court went further to state that a Custodial sentence is also an option which the court can also consider. They were sentenced as follows: Jimmy Mouala – suspend 21 months for two years – will serve 3 months. Jonathan Ilala and Samuel Riasi suspended 22 months for two years – will serve 2 months.
16. In *R v Mwasio*⁶, Muria CJ as he was then sentenced the prisoner to 3 years for burning down a dwelling home for dispute over a customary land.

² [2019] SBMC 5

³ [2015] SBHC 117

⁴ [2017] SBMC 29

⁵ [2004] SBHC 74; HC -CRC 187 of 2002 (29 September 2004)

⁶ Criminal Case No. 20 of 1994

17. In case of *R v Mamukama*⁷, the appellant was sentenced by the lower court for 1 ½ years' imprisonment following a guilty plea on one count of arson. On appeal the High Court Judge allowed the appeal and quash the sentence of 1 ½ years' imprisonment and substitute a sentence of eight months imprisonment. Three months of the sentence is to be suspended for one year on condition that the appellant does not re-offend on similar offence. The appellant was to serve only five months in prison. Consequently, he was released at the rising of the Court.
18. In the case of *Regina v Feman*⁸, the accused pleaded guilty to the burning of a kitchen house. The accused was intoxicated at the time of the offence and was 16 years old when he committed the act. The Court takes into account that, although he had exceeded 18 years of age at the time of conviction and sentencing, he was sentenced as a juvenile. Given that the offence of arson carries a maximum penalty of life imprisonment, the Court invokes Section 16(J) of the Juvenile Offenders Act, which allows for imprisonment as one of the sentencing options for young offenders. The starting point for juvenile offenders is set at two years of imprisonment. In this case, the accused was sentenced to one year of imprisonment. Having served 11 months and 29 days in custody, he was released upon the rising of the Court.
19. These authorities pertain to cases in which the accused had pleaded guilty to the offence, a situation analogous to the matter presently before the Court.
20. Having outlined the above cases, it is obvious to state that the sentencing tariff in this Jurisdiction ranges from 6 months' suspended sentence to 4 years imprisonment. Depending on the circumstance of offending, aggravating factors, value and criminal culpability involved. It is in my view that this case when compared to the above cited cases falls within the low and mid – range of the seriousness spectrum.
21. Cases are decided on their own circumstances and factors. Thus, the Court's duty is to fully maximize the considerations, analysis and assessment on all the matters and materials before it to arrive at a just, fair and proper sentence.

Starting point

22. Taking into account the guidelines and the aggravating factors set out above, balancing with the sentencing tariff and the accused criminal culpability, it is my humble view that the appropriate starting point is 2 ½ years' imprisonment.

Mitigating factors

23. These are the mitigating factors for the accused person:-
 - A. Early Guilty plea. The accused entered a guilty plea at the earliest opportunity. He demonstrated genuine remorse and has accepted the consequence of his wrongs. His plea has reserves much of the resources to pay for witnesses and

⁷ [2012] SBHC 66; HCSI – CRC 159 of 2021 (13 August 2021)

⁸ [2018] SBMC 11; Criminal Case 260 of 2016 (9 May 2018)

other allowances should this matter proceeds to trial. The Court's time is spared to deal with other genuinely contested matters.

- B. First Offender. No previous conviction. The accused person is a first time offender. In his 18 years of existence he has never had a brush with the law until this case. I acknowledge that he is a person of good character before this matter.
- C. Cooperation with Police investigation. The accused had cooperated well with the Police.
- D. Reconciliation. The accused's wife paid compensation to reconcile with the complainant's family. The compensation consisted of \$2,000 cash and \$5,300 worth of food items and other goods, amounting to a total of \$7,300. The reconciliation took place at Kuruna Villgae and witnessed by Police Officer Luke Mae and Chief Julius Rave.

24. Personal Circumstances of the Accused

- i. He is a Young Person
- ii. Married to Nester Taganipari, no children out of this marriage.
- iii. They adopted Nester's two children and responsible for their affairs.
- iv. Accused highest level of education is standard six at Kaotave Primary school five years ago.
- v. Accused is a farmer who sells produce to earn income for his family.

Sentencing consideration

- 25. In determining the appropriate sentence for the accused, the Court has carefully considered both specific and general deterrence. Specific deterrence aims to prevent the accused from engaging in similar criminal conduct in the future, ensuring that the individual understands the consequences of their actions and refrains from reoffending. General deterrence, on the other hand, serves to discourage others who might contemplate similar unlawful behavior by demonstrating that violations of the law will result in significant repercussions.
- 26. It is the Court's intention that the sentence imposed will not only address the individual's conduct but also send a clear message to the wider community that those who commit arson will not be tolerated. Given the offence of arson, an immediate custodial sentence is to be expected.
- 27. I give full credit to his guilty plea and remove 12 months'. I also deduct 4 months' to consider his mitigating factors and personal circumstance. In total, 16 months' is accordingly deducted from the head sentence.

Sentence remarks

- 28. Counsel for the accused submitted in court that the reasons for his involvement in the offence were twofold. Firstly, he became entangled in an incident involving his

brother-in-law, Nolo, and his cousin sister. Nolo owed him part of the compensation for impregnating his cousin. Secondly, the accused later discovered that his mother was involved in an affair, which he found difficult to accept. These as I understand are depressing issues, he could have sought alternative means to address his grievances. There are proper channels or ways to address these issues. These issues do not give him the right to burn his father's house.

29. The accused is a young person with a long life ahead of him. He must learn to control his anger and make better choices. If he continues down this destructive path, it will only lead to more suffering, with no benefit. It is essential that he learns from his mistake and chooses a path that will not only benefit himself but also bring positive outcomes for his family.
30. The offence of arson is a serious crime, akin to taking a life. A dwelling house represents an individual's sanctuary - a place where one should feel safe and at peace, where memories are created and cherished. To destroy such a place is to destroy a fundamental aspect of that person's life.
31. The sentence imposed by the Court will reflect both specific and general deterrence. However, it must not be viewed in isolation, but rather in conjunction with the principle of rehabilitation. This approach aims to enable the offender to learn from this case and serves as a turning point, providing the opportunity for rehabilitation and the chance to re-integrate as a better individual upon his eventual return from custody.

Sentence Orders

1. I hereby sentence the accused Mr. Thomas Pegoa to 14 months imprisonment or 1 year and 2 months' imprisonment.
2. I direct that 6 months of the sentence is to be suspended for one year on condition that the accused does not re-offend on similar offence.
3. The accused is to serve only 8 months in prison.
4. Sentence to commence on date of first remand.
5. Right of appeal applies within 14 days.
6. Order accordingly.

THE COURT

Dalcy

MRS. DALCY. B. OLIGAR

Principal Magistrate
Central Magistrates Court

