

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No: HAC 48 of 2011

BETWEEN : **THE STATE**

AND : **1. PURATAKE TAPOGE**
2. KITIONE VESIKULA
3. FILOMENE ULUIVITI

BEFORE : **HON. MR. JUSTICE PAUL MADIGAN**

Counsel : Mr. M. Maitava for State
All accused in person

Dates of hearing : 2-6 August 2013
Date of sentence : 9 August 2013

SENTENCE

- [1] Puratake Tapoge, Kitione Vesikula and Filomene Uluiviti, you have been convicted in this Court after trial of the murder of Iowane Petuna in Taveuni on the 28th July 2013.
- [2] The first accused and third accused are husband and wife and the second and third brother and sister.
- [3] The facts that emerged from the evidence is that on that day you Puratake and you Kitione had been drinking heavily since the morning. At about 4pm you were told that a few drunken youth were outside swearing and looking for a fight. Kitione's elder sister went out to ask what they wanted and then it seems the three of you went

out to engage these men. Punches were thrown and in the melee the deceased fell to the ground and both you Puratake and you Kitione continued to beat him with a log of wood and with a cane knife that you Filomena had brought out from the house to give to Puratake, your husband. The beating was so violent that Iowane sustained a large slicing cut to the head as well as a serious area of bruising with fractures to the skull. Iowane later died from extensive haemorrhaging within the brain.

- [4] There is no doubt from the evidence that the three of you were acting together in this violent attack and there appears to be very little evidence of provocation apart from some swearing and a suggestion of a fight the week before in a Bar, a fight in which the deceased was not even present. The tragedy of this murder is that the life was taken from a young man unnecessarily all because he swore and urinated in public.
- [5] The law says that I have to pass a term of life imprisonment on you all and this I do. However there is a discretion for me to set a minimum term which you should serve before being eligible for pardon and this now I proceed to do.
- [6] Puratake, the evidence points to you being the most violent and persistent in this attack. You used the cane knife to chop Iowane's head at least once and one witness says you even chased him and hit him with the log of wood. You are from the Island of Kioa aged 25 years and you tell me that you had no idea how violent you were being because you were drunk, but that is no excuse. To savagely beat somebody who has done nothing to you is inexcusable. To your credit you have a clear record and you do express some remorse for this affair. You are sentenced to life imprisonment but you will not be eligible to be pardoned until you have served 18 years.

- [7] Kitone, by all accounts you were the first family member to be on the scene throwing punches and hitting the deceased with the piece of wood. As with Puratake your brother-in-law you were reckless in attacking Iowane about the head, you say because he punched your sister, but the Court has heard no evidence that that actually happened. You are 23 years old, a farmer, and you have 5 previous convictions, 4 of which are for crimes of violence. It would appear that you have difficulty in controlling both your temper and your fists. You do say that you are sorry that Iowane died but your remorse did not appear to me to be very genuine. You are sentenced to life imprisonment and you will serve a minimum term of 19 years before being eligible for pardon.
- [8] Filomena, you are 21 years old also with a clear record. You were part of this attack in that you brought out the cane knife for your husband to use in his murderous attack. You expressed no remorse in this affair - in fact you chose not to say anything in mitigation when invited to do so. You cannot escape responsibility for this murder by saying you didn't throw any punches or use any weapon: you provided the most lethal weapon and in doing that you became one of the attackers. You are sentenced to a term of life imprisonment and you will serve 15 years before being eligible for pardon.

Paul K. Madigan
JUDGE

At Labasa
9 August 2013