

BETWEEN The Republic
 v
AND Mauteiti Beia

Appearances: Director of Public Prosecutions (DPP), Ms Pauline
 Beiatou for the Republic
 Ms Taaira Timeon for the Accused

Date of sentence: 27 May 2022

SENTENCE

1. Mauteiti Beia, you have pleaded guilty to the charge produced below and was convicted as charged accordingly on 10 May 2022;

Charge:

Grievous harm contrary to section 218(a) of the Penal Code, Cap 67

Particulars of offence:

"Mauteiti Beia, on 25 October 2020 at Banraeaba village, South Tarawa in the Republic of Kiribati, with intent, unlawfully assaulted a man namely, Bwereeti Utiera, with a bush knife and thereby caused him grievous harm to his head and left forearm."

2. You have admitted the following summary of facts;

"On Sunday, 25 October 2020 around 9am or 10am, at Banraeaba village, Tarawa island in the Republic of Kiribati, the victim namely Bwereeti Utiera, went to drink alcohol (wash down) at one house in Banraeaba to 'wash down' after drinking kava the night before. After drinking a few drinks of alcohol, he left the place and started walking back home. He said he could feel that he was drunk at that time. While he was walking back home, the accused, Mauteiti Beia hit him once on the head and another on the victim's left hand. For the second hit, the accused did in fact aim

at the victim's neck, however, he did not manage to hit the victim's neck when the victim defended himself by raising his left hand against that hit. After this second hit, the accused's relatives arrived at the scene and restrained the accused from what he was doing.

The victim did not know exactly what caused the accused to hit him and, he just realized that he was in the hospital when he woke up at that place.

From the two hits, the victim suffered grievous injuries to his left parietal-temporal scalp and left forearm as described in the medical report attached."

3. The medical report produced by Dr Kabiri Tuneti (General surgeon) set out the serious and life-threatening wounds to the victim who sustained a deep cut injury over his head (left parietal-temporal) which is 2-3cm deep, about 6-7cm in length, bone was exposed and bleeding occurred from the temporal artery branches. His left forearm was also seriously injured sustaining a deep cut injury over the posterior proximal forearm, about 6cm in length, depth is about 3-4cm, proximal ulnar was fractured, and bleeding occurred from the wound.
4. Dr Tuneti's report further clarifies that the victim is still attending surgical clinic sessions weak, and needs assistance with his progress in moving his left hand as well as medications to assist the pain he continuously feels.
5. The sentence I impose must condemn your behavior, deter you and others from the same offending and hold you responsible and accountable for the serious harm you have done to the victim. The sentence should also to the extent that it can, rehabilitate you before you reintegrate into the community (The Superintendent of Prisons should take note of the vital need to have variety of rehabilitative measures for prisoners including Mr Beia).
6. The aggravating factors for your offending include the following;
 - You attacked the victim by surprise when he was walking back home after drinking some alcohol drinks, after drinking kava (washed down). The unexpectedness of the attack caused the victim to sustain a serious injury to his head's left side. Luckily for the second hit, he managed to defend his neck (which you were aiming) with

his left forearm. The victim was drunk enough and not in a position to face your surprise and cruel attack. Had the victim not defend his neck with his left forearm, the result of your attack would be devastating and would have taken the victim's life.

- You used a lethal weapon which is a bush knife to attack the victim causing very serious injuries.
- The victim felt unconscious after the attack and was surprised to find himself waking up at the hospital. The nature of the victim's injuries to his head and left forearm are life-threatening and serious causing the victim to continue to feel pain and weak. The victim also continues to attend medical check-ups and an iron rod should be placed in his forearm.
- The victim is a police officer that the convict had ill-feelings toward with respect to how he treated him during one time he was arrested.

7. The *Penal Code (Amendment) Act 2019* inserting the new section 44A, states that this court shall not use its discretion to suspend the sentence where a weapon is used in the commission of an offence. In your case, Mauteiti Beia, I agree with Ms Beiatou that your sentence should be one of a custodial sentence.

8. I take into account the approach taken by the Court of Appeal in how sentencing should be done in an offence of grievous harm with intent as well as the sentence for the offence of grievous harm with intent that is imprisonment for life.

9. In *R v Teuruba Teriao* [2013] KICA 12, the accused was convicted after a trial relating to a charge of grievous harm with intent in which the convict injured the victim (a woman) with a weapon. The Court of Appeal granted the appeal and quashed the sentence decided by the High Court and increased the sentence from 2 years to 3.5 years imprisonment.

10. The Court of Appeal took the approach used in *R v Taueki* [2005] NZCA 174 in which three sentencing bands were used as follows;

...*"There were three sentencing bands. Band one (three to six years) was appropriate for violence at the lower end of the spectrum, which did not involve extreme violence or violence which was life threatening. Where none of the aggravating features was present, a starting point at the bottom end of band one was appropriate. The presence of one or more factors required a higher starting point. Band two (five to ten years) was appropriate for grievous bodily harm offending which featured two or three aggravating factors. Band three (nine to 14 years) encompassed serious offending which had three or more of the aggravating factors, where their combination was particularly grave"*...

11. Your offending is a serious one and in applying the sentencing approach used in *R v Taueki* and used by our Court of Appeal in *R v Teriao*, the appropriate starting point would be from Band 2 (five to ten years). The aggravating factors in your offending in particular the serious injuries to the victim's head and left forearm as well as the continuing suffering (pain and weakness) experienced by the victim and the fact that police officers should be safeguarded from such cruelty in light of their responsibilities warrants an appropriate starting point of 7 years.
12. The only mitigating factors in your favour, Mauteiti Beia, are as follows;
 - No previous conviction which tells a good story about your past being a law-abiding citizen.
 - Early guilty plea to the charge should be significantly considered in terms of your sentence as it shows remorse in what you have done. I agree with your lawyer, Ms Timeon, that you are remorseful and take full responsibility of your actions.
13. For these mitigating factors, I reduce your sentence by 18 months.
14. Mauteiti Beia, I sentence you to 5 years and 6 months imprisonment to run from today.



Abuera Uruaaba
The Hon. Abuera Uruaaba,
Commissioner of the High Court