

REGINA -v- JOHN PALMER

High Court of Solomon Islands

(Ward C.J.)

Criminal Case No. 10 of 1991

Hearing: 20 June 1991

Judgment: 20 June 1991

DPP for prosecution

A. Radclyffe for Accused

WARD CJ: This case was referred to me for review under section 50 of the Magistrate Courts Act. On the face of the record the sentence appeared to be inadequate and I listed the case for hearing.

The defendant had pleaded guilty to criminal trespass, malicious damage and threatening violence. They all relate to one incident and add up to a nasty, frightening attack on the house of a young single woman who lived there alone. The accused was fined a total of \$200 and bound over for 12 months.

The Court had been told the accused had previously been to the house to use the telephone and, afterwards, the victim had driven him back to his home. On the night of the offences charged, the accused had been drinking and went to the victim's house in the hope of persuading the girl to have sexual intercourse. When he arrived he knocked and, on being asked, gave his name. He was asked to leave and, thereafter, told her he had been hired to kill her and that he would "blow her brains off". He climbed up to her balcony and thrust a stick through the wire screen of her bedroom window and tore the inner mosquito screen. It was, as I have said, a very frightening experience and was made worse by the fact he cut the telephone wires so she could not telephone for help.

Whilst the Chief Magistrate in his reference described the cutting of the wire as if it happened at the outset and presumably as part of what he described as the "premeditated nature of the offence", there is nothing to support that on the court record. The accused admitted, in two written statements, that he cut the wire but, in both cases, stated it was after he had been on the balcony and after the victim threatened to call the police. I must take it on that basis. Nothing on the record tells whether the victim did, in fact, attempt to use the telephone during the incident.

When sentencing the accused, the magistrate noted the fact the defendant pleaded guilty, that he had no previous convictions, he was only 19 years old and he had a good job. He noted the seriousness of the offences and the fact they were aggravated by occurring at night.

In general terms such an incident would merit a prison sentence but this case had a number of features that would justify the court taking a more lenient course. Of those, the age of the accused and the loss of his job if he went to prison are clearly very important. The magistrate decided that, for a young man with a fortnightly income of \$60, a total fine of \$200 was a substantial penalty, and with the added warning of a bind over, would be sufficient punishment.

On the facts I agree except that the offence of threatening violence in the circumstances of this case clearly did merit a short sentence of imprisonment. Having decided that, I must consider whether it would be proper to suspend that sentence. For all the reasons already mentioned together with the additional fact the accused was sentenced on 8th April but it was not possible to hear the review until 20th June, I feel this is an appropriate case to suspend the sentence.

Thus I leave the fine as ordered by the magistrate but I quash the order binding the accused over, add a sentence of 6 months imprisonment for threatening violence and order it be suspended for 12 months.

(F.G.R. Ward)
CHIEF JUSTICE