

REGINA -v- LENCY WANEFALFA

High Court of Solomon Islands

(Muria ACJ)

Criminal Case No. 13 of 1992

Hearing: 27 May 1992

Judgment: 27 May 1992

J. Faga for Prosecution

C. Tagaraniana for Accused

MURIA ACJ: This accused has been committed by the Magistrates Court, Auki to this Court for sentencing. He was convicted on one count of robbery contrary to section 286(1)(a), one count of using abusive words contrary to section 169(o), two counts of malicious damage contrary to section 319, of the Penal Code. The charge of going armed in public against the accused had been withdrawn. The accused pleaded not guilty to all the charges.

After a full trial the Magistrate found the accused guilty and convicted him on all counts. The Magistrate considered, and rightly so in my view, that the charge of robbery merited a longer sentence than 12 months imprisonment and so committed the accused to this Court for sentencing. The Magistrate who heard the case, has sentencing power of up to 12 months imprisonment only.

The accused is relatively a young man. He has a wife and two young children. He has been the key-man in his father's business, as such he is self-employed. The value of the beer robbed had been repaid. Also as a result of the incident, his wife left him. This is the accused's first offence of this nature. I take all those factors into account when assessing the appropriate sentence to pass on this accused.

Against those considerations are the facts of this case. The victim's two store-keepers were working in the small store that particular day when the accused came into the store and demanded that he be given a carton of beer. When the shop-keepers insisted that he produced the money, the accused pulled out a knife, described as "Sea Knife" from his back pocket and threatened the shop-keepers who were frightened and moved away from the deep-freezer where the beers were kept. The accused then opened the deep-freezer and took one carton of Stein Lager Beer and went out to a truck that

was parked outside. Shortly thereafter, the accused returned and went toward the store again. The accused advanced toward one of the store-keepers with the knife. Being frightened, the store-keeper ran away but the accused caught up with him and pointing the knife against the store-keeper's chest, the accused ordered the store-keeper to give him another carton of beer. As he was pointing the knife at the store-keeper's chest, the accused said to the store-keeper in Pidgin English:

*"Abraham (Store-keeper's name) you no enikaen. By me busam you wetem knife ia. Me no worry long life-time. You go givim me one carton more".*

The Store-keeper under knife threat, went into the store and gave the accused another carton of beer. The accused took the second carton of Stein Lager Beer and went into the truck.

The accused then returned towards the store, the third time and in an aggressive manner shouted in Pidgin/English:

*"Kaikai shit belong mummy belong you fala. Anyone cross come down long here".*

Nobody responded to the accused as he was holding the knife at the time. The accused then plunged the knife into two fibre-glass canoes damaging them.

The charge of robbery in this case is clearly an aggravated one. The robbery was done with the use of an offensive weapon and with violence. The maximum sentence for the offence of robbery under section 286(1)(a) is life imprisonment. The sentence which this Court imposes must reflect the seriousness of the offence and it will inevitably be a severe sentence.

Small businesses like that of the victim in this case are susceptible to such bullying behaviour, such as those of the accused. They are easy target for people, like the accused who wish to help themselves at other people's hard-work. Small stores such as that concerned in this case, play an important role in providing the needed service to the public in the areas where they are operating. In spite of the ailing economy the country is going through, the victim in this case has done his share in a small but important way through his small store in developing this country. The law must therefore support him and protect him from people like the accused. The only way in which the Court can assure the victim that the law will protect him is to make it clear to people who do commit this sort of offence that inevitably a severe sentence with deterrent element will be imposed on them so that other like-minded robbers, greedy persons will realise that it is not worth taking the chances.

This case as I have said clearly merits a severe sentence with some element of

deterrence in it. Counsel referred to the case of *R -v- Maritino Suilamo, Tome Akwasu'u and Molousafi Criminal Case No. 3 of 1992* where the accused were charged with murder and robbery. The Court in that case sentenced two of the accused to 4 years imprisonment each and the other to 3 years on the robbery charge. I feel that case rests on a different footing. I do however bear in mind all that had been said on the accused's behalf both in the Court below and in this Court.

Doing the best I can to arrive at a fitting sentence in the circumstances of this case, and bearing in mind the numerous warnings issued by this Court on the use of weapons when committing such offence, the proper sentence I feel should be one of **two and half years imprisonment on the robbery charge. For using abusive words one month imprisonment and for two counts of malicious damage, 4 months each.**

**All sentences are to be served concurrently.**

**(G.J.B. Muria)  
ACTING CHIEF JUSTICE**