

ANDREW AOLE -v- REGINA

HIGH COURT OF SOLOMON ISLANDS.

(KABUI, J.).

Criminal Appeal Case No. 320 of 2005

Date of Hearing: 19th September 2005.

Date of Judgment: 21st September 2005.

H. Kausimae for the Crown.

L. Kershaw for the Appellant.

JUDGMENT

Kabui, J. Andrew Aole pleaded guilty to one count of arson and one count of conspiracy to commit a felony in the Magistrate Court. The Magistrate Court sentenced him to imprisonment for three and half years on each count to run concurrently. This means that the effective combined sentence to be served on the two counts against him is three and half years. The Magistrate Court also sentenced Atkinson Do'oro to imprisonment for five and half years. The Magistrate Court further sentenced the third person, Jerry Buare, to imprisonment for three years. These three men were co-accused in the commission of the offences for which they had been jointly charged. Andrew Aole's case is that his role in the commission of the offences was minor than Jerry Buare's role and therefore his sentence should be reduced by six months because of that fact. This is the only issue in this appeal.

The Facts.

Atkinson Do'oro was the Manager of the National Bank of Solomon Islands (the NBSI) Agency at Tulagi. He persuaded Buare and Aole to set fire to the NBSI Agency building for reward to destroy evidence of his wrong doing. He had stolen a substantial amount of money from the NBSI Agency. He supplied them with boxes of match and petrol for the purpose of executing his plan. He gave Buare the keys to the NBSI Agency and showed the documents to be

burnt. Buare poured petrol onto the documents and set fire to them. Aole stood outside whilst Buare was inside the NBSI Agency attending to the burning of the documents. Aole was to burn the Provincial Building but it did not happen. He only burnt some rubbish.

The roles played in the commission of the offences.

Atkinson Do'oro was the master mind of the plan to destroy the documents, Buare was the implementer of that plan and Aole offered his assistance in the commission of the offences. Aole was equally responsible for the commission of the offences under the law as aiding and abetting in the commission of the offences. As already stated above, Atkinson Do'oro received five and half years imprisonment, Buare received three years imprisonment and Aole, three years and six months imprisonment.

Disparity in the sentence.

There is an obvious disparity between the sentence imposed on Buare, the implementer, and Aole, the by-stander who assisted in the commission of the offence. The disparity is that Aole, the aider and abettor, received a sentence six months longer than Buare, the implementer, who received three years imprisonment, six months shorter than Aole. The personal circumstances of each of them are similar in terms of mitigation. The Crown conceded this disparity and on that basis, did not oppose the appeal.

Conclusion.

For that reason, I will quash the sentence of three and half years and substitute it with a sentence of three years imprisonment. I order accordingly.

Frank O. Kabui
Puisne Judge