

IN THE CENTRAL MAGISTRATES' COURT
OF SOLOMON ISLANDS

CRIMINAL JURISDICTION

CMC-CRC No. 800 of 2019



REGINA

V

SOJNOCKIE

Date of Application: December, 2 2019

Date of Extempore Ruling: December, 2 2019

Mr Manebosa for the Accused

Constable Tebakota for the Prosecutions

RULING ON WANT OF PROSECUTIONS

1. The Extempore Ruling Delivered in court and I now publish my written ruling.
2. The Accused was charged with Careless Driving contrary to section 40(1) of the *Road Transport Act* Cap 131.
3. On 29th November 2019, the matter was for Pre Trial Conference ("PTC") but upon agreement between parties, they asked for adjournment to Monday 2nd December 2019 for PTC. It was granted by the court and was adjourned accordingly.
4. On 29th November 2019 at about 9.25am, the matter was called and there was no Prosecutor from the Police Prosecutions in court. Counsel for Defence proceeded to assist the court on the status for PTC and presented their side of the PTC, orally. After hearing from the PTC, still there was no Prosecutor from the Police Prosecutions in court. The Counsel for Defence then made an oral application to dismiss the charge for want of prosecutions. This was on the reason that Prosecutor was aware of the adjournment and they are not in court to assist the Court. Just before the Defence was concluding its presentation, Constable Tebakota stepped in court.
5. I informed the Prosecutor of the application by the Defence. He responded that he did not have the file of the said matter and said it was his colleague's matter. And asked if the matter could be stood down to 1.30pm.

6. I did not grant the application. The ground for refusal was, because the reason for standing down did not satisfy the court. Courts start at 9am. Police Prosecutions arrived after Defence submitted their PTC version and concluded with their dismissal application. Prosecution then informed court they did not have the file. And blamed a fellow Prosecutor. Prosecutions is a body. Whoever appears for a matter for Prosecutions must assist the court accordingly. In carriage or not, those are administrative issues of the Prosecutions and not the court's business. Also, the matter was adjourned from 29th November 2019 to 2 December 2019 at 9am for PTC. Prosecutions arrived at court very late and were not prepared.
7. Despite the refusal, I, instead adjourned the matter to the end of the list and reserved my ruling for the dismissal application. I then asked the Prosecutor to make an attempt to make any arrangement to ensure that they assist the Court effectively. The Prosecutor was excused and left the court room. I continued hearing matters. During the hearing of other matters, the Prosecutor walked in and sat in court. At the end of the court list he recalled the matter and informed court that he had asked his other Colleagues to step in to assist but they refused. And stated that he has nothing to submit regarding the matter.
8. The matter is dismissed for want of prosecution pursuant to section 187 of the *Criminal Procedure Code*. Prosecutions have grossly failed the court to assist in prosecuting the case. First they came in late with no good reason. They then could not assist the court. When given the chance to amend things, they still could not assist. This is the same as they are not available to assist the court or are not prosecuting the case at all. The Accused is then discharged permanently from the charge of careless driving. Aggrieved party can appeal within 14 days.



THE COURT

Ishmael Kekou – Magistrate First Class