

IN THE CENTRAL MAGISTRATES' COURT

OF SOLOMON ISLANDS

Criminal Jurisdiction

Criminal Case No. 988 of 2018

On the 5th day of July 2019

John Wesley Zoze for the Crown

Ron Dicky Pulekera for the Accused

BETWEEN:	REGINA	Complainant
AND:	VESLYN RIRIANA	Accused

SENTENCE

The charges and particulars

On the 14th of June 2019, the Accused pleaded guilty to one count of Causing death by reckless and dangerous driving contrary to section 38 of the Road Transport Act (Count 1) and one count of Presence of alcohol in person's blood contrary to section 43A (1) (a) of the Road Transport Act (as amended by the Police and Transportation Act (Amendment) (Alcohol Testing) Act (Count 2).

The particulars of the Dangerous and reckless driving causing death are:

"That Miss Veslyn Ririana, at Honiara, Guadalcanal Province, on the 15th of September 2018 at about 2200 hrs at night did cause the death of a person namely Hellen Geli, by the driving of a motor vehicle to wit a Toyota Car Registration Number MA-1545 on a road namely the Kukum Highway road opposite the Solomon Water area, recklessly and at a speed which was dangerous to the public, having regard to all the circumstances of the case including the nature, condition and use of the road, and the amount of traffic which is actually at the time, or which might reasonably be expected to be, on the road by driving in a very high speed then swerved off the main road and climbed onto the pedestrian walkway there by hitting the deceased, Hellen Geli".

The particulars of Count 2 are:

"That Miss Veslyn Ririana, at Honiara, Guadalcanal Province, on the 15th of September 2018, did drive a motor vehicle to wit a white Toyota Car Registration Number MA-1545, with presence of alcohol concentration of 50 milligrams or more in 100 milliliters her blood, approximately 0.172g/100ml".

Agreed facts

The Prosecution and your Lawyer on your behalf, had agreed on the following facts for sentencing:

1. The defendant is Veslyn Ririana of Saliö village, Isabel Province.
2. The offending occurred on the 15th of September 2018 at around 1100hrs.
3. The defendant was about 26 years old at the time of the offending.
4. On the date of the offending at about 11 pm, the defendant was driving a car, white in colour, registration number MA-1545.
5. The defendant left Kolaridge and headed westerly direction towards the Mendana Avenue.
6. When the defendant approached the Honiara City Council roundabout, she drove at a very high speed and suddenly veered off the road and sped towards the SIWA Office Security fence and the foot path.
7. The defendant hit the deceased namely Hellen Geli who was a pedestrian and threw the deceased onto the fence.
8. The deceased was then rushed to the National Referral Hospital but was pronounced dead.
9. At the time of the incident the defendant appeared to be heavily intoxicated.
10. The defendant was dealt with by the Police and Preliminary Breath test was done and found to have 0.0184% alcohol presence in her blood. The breath analysis test was further done and the result was 0.157% of alcohol present in the defendant's blood.

Aggravating factors

The offence of causing death by dangerous and reckless driving is a serious offence because it resulted in the death of another. Due to the decision of the defendant to drive whilst she was heavily intoxicated with alcohol, the vehicle she was driving veered off the road and as a result, hit the 15 years old girl, the deceased who was walking on the foot path. A young life was cut short because of the careless driving of the defendant fueled by alcohol. Whatever sentence the Court will pass on the defendant will not match the loss of the young life and loss to her family.

Whilst she was driving in that manner, she also endangered other road users and pedestrians.

Mitigating factors

The defendant has entered early pleas to the charges. The pleas are demonstrations of remorse by the Defendant. The Court will give full credit for his pleas of guilty. I note that the defendant has a small son whom I believe had felt the impact of her mother's absence whilst on remand and will certainly feel the impact if a term of imprisonment is imposed on her. A prison sentence, however short, will have a profound effect, both practical and financial, upon the son and her family. The defendant should have thought carefully about the consequences of driving whilst heavily intoxicated. She has failed and therefore she alone must bear responsibility for the effects of any imprisonment sentence on his family, including his son.

I am satisfied that the defendant is a first time offender and has co-operated well with the Police. I also noted that a reconciliation had been conducted on behalf of the defendant with the families of the deceased. A substantial amount of \$57, 685.00 was paid as compensation to the family of the deceased.

Sentencing tariffs

I have had the opportunity to look at the cases referred to by parties and noted that the range seems to be from 2 years to 4 ½ years imprisonment. Whilst past case serve as useful guidelines in terms of sentencing for similar offences, it is a well-established principle that no two cases are the same. Each case has its own set of facts and therefore must be considered on the basis of its own facts.

Principle of sentencing applicable

In terms of which principle of sentencing is applicable in this case, I am of the view that the principle of deterrence both specific and general are important considerations. Clearly the defendant's offending is serious, and the sentence that the Court will impose must be calculated to deter her and others from offending in this manner. She must also be punished for what she had done.

Sentence

In view of the aggravating factors that are present, I will impose 3 years as the starting point for count 1 and for count 2, a starting point of 10 months imprisonment. I have also taken into the time spent in custody on remand when deciding the above starting points for the two offences.

To reflect the mitigating factors and the pleas of guilty, I order further deduction of 1 year from count 1 and 2 months reduction from Count 2.

The total sentence for Count 1 is 2 years imprisonment and for Count 2, the total sentence is 8 months imprisonment.

The sentences for the two Counts will be served concurrently. The total effective sentence is 2 years imprisonment.

The sentence will commence on 5th July 2019.

The Court,



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DCM – Ricky Iomea