



**IN THE CENTRAL MAGISTRATES' COURT  
OF SOLOMON ISLANDS**

**CRIMINAL JURISDICTION**

CMC-CRC No. 477 of 2019

**REGINA**

**V**

**SEAN HARO**

Date closing submission: October, 8 2019

Date of Judgement: October, 14 2019

*Staff Sergeant Teula and Constable Hiroshanchi for Prosecution*

*Mr Dive for the Defence*

**JUDGEMENT**

1. Mr Sean Haro ("Accused") was charged with Possession of Dangerous Drugs contrary to section 8 (b) as read with section 39 (1) of the *Dangerous Drug Act*.
2. The Prosecutions staged their case that on 16<sup>th</sup> April 2019, Police patrolled at Ngossi, Honiara and sighted a suspicious looking market stall. The Police checked it and found the Accused with 26 rolls of marijuana inside his backpack. The Police took the Accused to the Central Police Station and arrested him for the possession of drugs.
3. The Crown's case was that 26 rolls of marijuana were in a small pink pencil bag which was in a brown backpack that was in possession of the Accused.
4. The Defence, on the other hand contended the 26 rolls were not found on the Accused but in the market stall. Also, the Defence argued that there was no evidence the 26 rolls were marijuana.
5. The Accused did not give evidence. However, it is the case for the Prosecutions to prove beyond reasonable doubt that the Accused committed the offence. If there is any doubt, it must tilt to the benefit of the Accused. The doubt, however, must be reasonable.
6. The facts of trial not in dispute are:

- a. On 16<sup>th</sup> April 2019, Police Constable Ron Sopi ("PW1") and Police Constable Daniel Forau ("PW2") were part of a team of Police Officers, on mobile patrols under the Police Operation for the National General Elections.
  - b. PW2 was the Driver of the Police vehicle. They patrolled at Ngossi where they came across a market stall known as Cell Block market house. They suspected of some illegal activities. They pulled over and PW1 went into the market stall.
  - c. The Accused was in the market stall with a brown backpack. At that time it was around 1.30 pm. PW1 searched the market stall and found a bamboo bong.
  - d. PW1 then found some 26 rolls which he suspected was marijuana. He then invited the Accused into the truck and they drove to Central Police Station.
  - e. Upon arriving at the station, PW1 led the Accused to the Watch house and then formally arrested him there for possession of marijuana.
  - f. The Accused was handed to Police Constable Marie Tuhangenga ("PW3"). She then admitted the Accused to custody by filling up a Detainee Admission Form ("PE2").
  - g. Police Constable Estrella Ilapi ("PW4") collected 26 rolls as exhibit of the Accused's case.
  - h. Police Constable Lorna Poma ("PW5") took the exhibits from PW4 and took photos of it ("PE4"). She also referred to Exhibit Register Book ("PE3") whereby she recorded in it 26 rolls.
7. There are also exhibits tendered by consent but were not highlighted in the uncontested facts. This was because they appear prejudicial to the Defence. The facts are the exhibits of the pink pencil bag with 26 rolls of marijuana in it ("PE1") and, the Agreed Facts ("PE5"). These facts will be covered later in this judgement.
  8. I leave out peripheral matters and go straight to the substantive facts to the relating issues of trial.
  9. With the credibility of witnesses, I have had the opportunity to observe the demeanour of the Crown witnesses and find them to be truthful.
  10. PW2 was cross examined and confirmed that he was in the truck when PW1 was searching the market Stall. When PW1 searched the Accused outside of the Market Stall, PW2 was already out of the vehicle and was where the search was conducted. And saw what PW1 was doing including the pink bag being taken out of the brown bag.

11. PW1 confirmed throughout his evidence that he asked the Accused to search his brown backpack. The Accused cooperated and he opened the brown bag to find a pink bag in it. He looked in the pink bag and found 26 rolls of marijuana.
12. The same pink bag with 26 rolls in it was confirmed by PW2, PW3, PW4, and PW5. They all agreed with each other about the pink bag. There was no evidence to show that the pink bag was a different one from that which PW1 confiscated from the Accused. PW2 saw PW1 search and confiscate the pink bag. Even if PW2 did not see it too well, it did not change the fact that it was the same pink bag that went through PW3 to PW4 and to PW5 and finally illustrated in court as exhibit evidence of the Crown. There was no evidence to suggest that the pink bag was a different one or was switched. It was the same from when it was confiscated.
13. PE1 and PE5 were tendered as exhibits. PE5 had the agreed facts which parties are bound by pursuant to section 21 of the *Evidence Act*.

*“Admission by agreement*

*21. (1) In a proceeding, the court may –*

*(a) with the consent of all parties, admit relevant evidence that is not otherwise admissible; and*

*(b) admit evidence offered in any form or way agreed by all parties.*

*(2) In a criminal proceeding, an accused may admit any fact that is not in dispute so as to dispense with proof of that fact.*

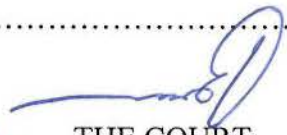
*(3) In a criminal proceeding, the prosecution may admit any fact that is not in dispute so as to dispense with proof of that fact.”*

14. In admitting evidence as exhibit under section 21 of the *Evidence Act* discharges the duty of the Prosecutions the need to prove that fact. In this case, the facts was that PW1 found PE1 (pink bag with 26 rolls of marijuana) in the Accused’s brown bag. This was agreed and tendered as evidence. Agreed and bound by parties in the trial. Therefore, I accept the evidence of PE1 and PE5 that the rolls were marijuana.
15. PW5 did state in her evidence that the marijuana was provided and tested by a Botanist. There was no Botanist finding. I take it that because of the agreed facts that the rolls were marijuana between parties. Prosecutions then were not obliged to prove it. However, the Defence then made it an issue later while in trial. PE5 (Agreed facts) were tendered at the end of trial of the Prosecution’s case but there was no objection. I admit the PE5 of the facts that the rolls were marijuana. I take its natural probative value that the 26 rolls were marijuana were tested to be the same before the matter was brought to court to be tried. This was confirmed in the possession of the Accused at the material time and day.
16. I am satisfied that the Prosecutions have discharged their burden of proof.

**ORDERS**

- 17. Find that the Prosecutions has proved their case beyond reasonable doubt.
- 18. The Accused guilty of the possession of a dangerous drug contrary to section 8 (b) as read with section 39 (1) of the *Dangerous Drug Act* and convict him accordingly.
- 19. Right of appeal to any aggrieved party after 14 days of the sentence by Court.

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THE COURT

Ishmael Kekou – Magistrate First Class

