

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

Criminal Jurisdiction

Criminal Case No: 1087 of 2019

On the 12th day of May 2020



Ron Dickey Pulekera for the Accused

Francisca Angilio Luza for the Prosecution

BETWEEN:	REGINA	Complainant
AND:	MATIA SIVOKIKI	Accused

SENTENCE

The defendant Matia Sivokiki has pleaded guilty to the three charges against him. These are, one count of Common assault contrary to section 244 of the Penal Code and two counts of Unlawful wounding contrary to section 229 of the Penal Code. He is therefore convicted on his own guilty pleas.

Today so for the Court to impose sentence on him.

The facts agreed.

The facts which constitute the offences are agreed by parties and tendered. The material facts are; that on the 12th of September 2019 at about 6 pm, Basilio Paura finished work and returned to his village at Reko, Central Islands Province. He saw the defendant had few beers with their Provincial Honourable Mr. Selestino Pasahe. Basilio Paura was at his village preparing to have his bath when the defendant attacked him with a knife that resulted in a minor injury to Basilio Paura's left ear.

The incident occurred on 12th September 2019 at about 7 pm at Reko village, South Savo, Central Islands Province.

On the 23rd of December 2019, the defendant and his wife Veronica Kulipelu returned to the village from Honiara. The defendant and few other boys including Jack Celestine (one of the victims) were drinking beers at the defendant's residence. Not long after that, the defendant went to bed.

Between 11 pm and 12 midnight, the defendant woke up and went outside their house. He saw his wife and one of the boys, Jack Celestine having sexual intercourse.

The defendant became angry and an argument broke out. The defendant bit his wife's right ear and as a result of which she sustained injury on the said side of her ear.

Following that, on the same night, Jack Celestine was trying to intervene into the argument. There, the defendant struck Jack Celestine's left hand with a bush knife and as a result, Jack Celestine sustained a wound or injury on his left hand.

Jack Celestine was later transported to Bonala clinic for medical attention while Veronica Kulipelu sought medical assistance at Kaugele clinic on 25th December 2019.

The incidences occurred on 23rd December 2019 between 11 pm and 12 midnight at Sesepe village, South Savo, Central Islands Province.

Those are the facts that constitute the offences charged.

Aggravating factors

Common assault (Count 1) and Unlawful wounding (Count 2)

The accused was under the influence of alcohol when he committed the offences on the victims in all three counts.

The offences in counts 1 and 3 were committed with the use of knife by the defendant. The facts in relation to count 1 only mentioned a knife. The facts is silent as the type and size of the knife. In count 3, a bush knife was used. A knife, whether it is small or big, is always a deadly weapon when it is in the hand of an aggressor or violent person as in this case. When it is used to unlawfully inflict injury on another person, it makes the offending serious.

In count 3, the injury had caused excessive blood loss to the complainant Jack Celestine and as result he was unconscious when he arrived at the clinic. This reflects the nature of the injury which was serious.

The incidences occurred at night around 7 pm in count 1 and between 11pm and 12 midnight in counts 2 and 3. The Prosecution submitted that this aggravates the offending as the victims were put in dangerous positions to defend themselves. I disagree, the fact that the offences happened around 7 pm a time that usually gets darker and around 11 pm is not sufficient to say whether the victim was in fact put in danger. The circumstances in which the attacks happened, such as whether the scenes were in complete darkness or was well lit or not would assist in assessing whether the victims were clearly put in danger or not. Those details are absent from the facts agreed. The absence of these kinds of facts makes it difficult to be sure whether the victim was put in danger or not.

Mitigation

The accused had pleaded guilty to the charges which has saved time and resources.

He has no previous conviction, meaning he was a law abiding citizen before he is convicted on this offence.

I note that he is also the only breadwinner in the family and I believe that his imprisonment has had a negative impact on his family.

In count 1, the facts are limited and therefore, there is nothing to suggest that the attack was pre-meditated. There was clearly no pre-planning in counts 2 and 3. The defendant was angry because he saw his wife having sex with Jack Celestine. While the sight of his wife having sexual intercourse with the complainant Jack Celestine is highly provocative and it is reasonable for him to be angry, there is no justification for the use of a weapon to inflict injury and violently attacking his wife by biting her ear.

Comparative sentences

Parties have submitted a number of comparative sentences to assist the Court in arriving at a just and proper sentence. Those cases are of great guidance in determining the appropriate sentence but is a trite principle that given the unique facts of each case, each case has to be decided on its own facts.

Sentencing principle

These are violent offences and therefore, the principle of deterrence is the most significant consideration in this case.

Having considered the above factors, I am of the view that the following sentences are appropriate in the circumstances of this case.

Sentences

Count 1: 6 months imprisonment

Count 2: 12 months imprisonment

Count 3: 12 months imprisonment

Counts 2 and 3 to run concurrently to each other and to be served consecutively with count 1. The total sentence to be served is 18 months imprisonment.

I believe that this sentence also reflects a just punishment for the Accused. I am also satisfied that the defendant is a good candidate for rehabilitation so this sentence will allow the Accused to rehabilitate himself in prison to learn that resorting to violence with the use of deadly weapons such as knife is not the way to solve disagreements.

