

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



Criminal Case No: 938 of 2020

In the Criminal Jurisdiction

**BETWEEN: REGINA**

**V**

**AND: WILLIE AITOREA**

Mr Tex Riwa for Police Prosecutions

Ms Tracey Aisa for the Accused

Date of sentencing submissions: 19<sup>th</sup> of October 2020

Date of sentence: 20<sup>th</sup> of October 2020

**SENTENCE**

1. Mr Willie Aitorea, you have pleaded guilty to one count of vehicles to be licensed, one count of vehicles to be insured and one count of drivers to be licensed. Having perused the agreed facts tendered by the Prosecutor and Defence Counsel, I then proceeded into entering conviction against you.
2. The offences at hand, are amongst the frequently committed offences under the Road Transport Act and the Third Party Insurance Act.  
From the agreed facts tendered, I note that both the vehicle license and third party insurance have expired respectively in October and November 2019. On the 2<sup>nd</sup> of September 2020, you came from the Hospital and fixed the vehicle until the evening. On the 3<sup>rd</sup> of September, you drove the vehicle to Lungga for full service and maintenance. You were also intending to get a permit from Kukum Traffic. However, by then it was already late for you to obtain a permit from Kukum Traffic. You were not aware that permits can only be given on Mondays, Tuesdays and Wednesdays.
3. Since you wanted to move your vehicle to Lungga, you then drove the vehicle and came to realise that the Police were conducting a traffic check in front of Supreme Casino, along the Kukum Highway.
4. I made enquiries as to whether the vehicle license and third party insurance have already expired when you purchased the vehicle, and in response you said you could not recall as to which month you purchased the vehicle last year. You further stated that after purchasing the vehicle, you then left for home (village).

5. The maximum penalties for each of these offences are as follows;
  - Vehicles to be licensed: 5000 penalty units or six months imprisonment or both;
  - Vehicles to be insured: 150 penalty units or four months imprisonment or both; and
  - Drivers to be licensed: 5000 penalty units or six months imprisonment or both.
6. These maximum penalties are good indicators of the seriousness involved. Despite the amendments done to the maximum penalties for counts 1 and 2 in 2009, these offences continue to occur.
7. Owning a vehicle comes with responsibilities that must not be taken lightly. A vehicle, can only be road worthy, once it has a third party insurance and valid license. Section 8 of the Road Transport Act outlines the circumstances in which the provisions under section 7 of the Road Transport Act, shall not apply. From out is before me, there is nothing to suggest that your actions fall under the overall circumstance provided for under section 8 of the Road Transport Act.
8. As submitted by your lawyer, you were aware that the both the vehicle third party insurance and license have both expired. Your intention to apply for a permit does not change the fact that you have knowingly committed all the offences at hand. From the charge at hand, I note that it was about 10:39 hours that the offences were said to have occurred. You were travelling from China Town, as stated in the agreed facts, to Lungga. If I could recall, this was during the period in which the Kukum Traffic Department was still temporarily housed at the Central Police Station Compound. Hence if it was indeed true that you were intending to apply for a permit, then you should have first travelled down to where the Kukum Traffic Department was located, before heading up to Lungga.
9. Further to this, there is no record of you owning a valid driver's license, as stated in the agreed facts. From the submissions before me, it is evident that you were fully aware of the need to have a driver's license before driving any vehicle on the road, but you failed to consider what is expected of you.
10. The attitude reflected through your actions, needs to stop and people need to refrain from using their personal circumstances to justify their unlawful actions. Clearly, your presence in court today, is a result of your poor decision making. Our laws have been in place for quite a long time now, hence the need for tougher approaches to be taken.
11. I am not convinced that you do not know about the responsibilities you are placing upon your own shoulders, when you made the decision to purchase the vehicle in question. While the facts may have shown that you have been at the hospital, it all comes back to your responsibility as a vehicle owner.
12. From the submissions before me, I have noted the early guilty pleas entered and the remorse on your part. I also note the fact that you are a first time offender. Further to this, is your faithfulness in coming to court, except for the 16<sup>th</sup> of October 2020 where your lawyer had informed me of the reason behind your absence. I have received a medical certificate confirming your daughter's medical situation and the other was tendered as part of my orders in relation to your absence on the 16<sup>th</sup> of October 2020. On the other hand, your lawyer, highlights that the aggravating factor in this regard, can be seen through the maximum penalties involved. She also referred to cases relating to the offences at hand, and further submits that while the circumstances in each of the cases identified, might vary

from that at hand, the court should consider what has been imposed to assist in deciding the appropriate sentence. She concluded by asking for a sentence of fine, and that time be given. At this stage, I must highlight the need to read and summarise cases properly, to avoid misleading the court with cases, especially those previously heard by this court.

13. As for Prosecutions, they have failed the mitigating and aggravating factors which I should consider. Obviously, they did not provide much assistance, and instead asked me to impose a sentence of fine, without outlining any justifications to support what they have asked for. Prosecutors need to be reminded of what is expected of them in this regard, and the need to improve their quality of submissions. Further to this, I was also asked to apply the fines concurrently since the offending's arose from the same set of facts. While these offending's occurred through the same set of facts, they are regulatory offences, hence if the court is to consider a sentence of fine, the default period should be served separately. The proper approach is to apply the fines, if considered by the court, consecutively.
14. With the facts before me, and having paid due consideration to the factors involved, as well as the need to send out messages of both specific and general deterrence, and the need for rehabilitation, prevention and retribution, I will consider a sentence of fine.
15. Having paid due consideration to the circumstances involved, I now order as follows:

#### **ORDER**

- (i) **Count 1, a fine of SBDS1000, due by the 27<sup>th</sup> of November 2020, in default, 3 months' imprisonment;**
- (ii) **Count 2, a fine of SBDS150, due by the 27<sup>th</sup> of November 2020, in default, 10 days imprisonment; and**
- (iii) **Count 3, a fine of SBD1500, due by the 27<sup>th</sup> of November 2020, in default 3 months imprisonment.**
- (iv) **Total fine of SBD \$2650.00, due by the 27<sup>th</sup> of November 2020, in total default, six months imprisonment.**
- (v) **Right of appeal applies within 14 days from this date.**

Dated this 20<sup>th</sup> day of October 2020.

  
**THE COURT**  
Emily Z Vagibule- Magistrate