

**IN THE SOLOMON ISLANDS MAGISTRATES' COURT**  
**AT HONIARA**  
**Criminal Case No. 964 of 2020**

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**REGINA**

**V**

**WALTER KELLY BOU AND PHILEMON KESAKA**

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Before: Principal Magistrate Ms. Fatimah Taeburi  
Prosecutor John Mark Saugaro (PPD) for the Crown  
Mr. Bobby Harunari (PSO) for the Defendants

Date of Hearing: 14<sup>th</sup> December 2020  
Date of Sentence: 16<sup>th</sup> December 2020

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**SENTENCE**

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1. The defendants in this case have pleaded guilty to the charges against them.
2. Mr. Walter Kelly Bou pleaded guilty to two counts of using abusive words, one count of drunk and disorderly, one count of malicious damage and one count of disobey lawful order or direction.
3. Mr. Philemon Kesaka pleaded guilty to one count of drunk and disorderly.
4. The facts in their case are as follows;
5. All the offences were committed against the police at the Yandina Station.
6. On the 28<sup>th</sup> of September 2020, these defendants were drunk.
7. They walked up and down the road at Yandina. They shouted and they were acting disorderly at the station.

8. They went past a police officer's house. Kelly Bou swore at the police officer.
9. The officer called his colleagues.
10. Three other police men came in a police land cruiser.
11. The accused Kelly Bou ran towards the police vehicle whilst it was approaching. He jumped on top of the bonnet of the vehicle. He put his knee on the front wind screen of the vehicle. The wind screen was damaged. He further climbed on top of the roof of the vehicle and repeatedly jumped up and down.
12. The officer tried to talk to him to get down from the vehicle. He refused their orders.
13. He got off the vehicle on his own initiatives. Mr. Kesaka moved him to another location. The police then left.
14. Both defendants were not arrested that day.
15. On the next day, police from Tulagi came to Yandina and arrested them.
16. A report was produced which showed that the front bonnet, the front wind screen and the roof of the vehicle were damaged. The damages costed the Solomon Islands Government \$10,000.00.
17. I convict both defendants on those facts.
18. In sentencing them, I consider the arrogant and show-off behaviours displayed by these convicts. I also consider that the police are the target of their actions. The message must be made clear to the youths in Yandina and in other societies. That people who commit offences against the police and any law enforcement officers will be punished by these courts.
19. This is because the institution and the function of the police and law enforcement is very central in maintaining stability and order in any given society. It is therefore very crucial that respect from the general public must be afforded to these institutions and their functions.
20. As stated in the case of *R v Fa'afunua*,

*Police officers are representatives of the State in the administration of the rule of law and should be respected when they arrive at any scene of crime. They must be allowed to perform their duty in ensuring that peace and normality is restored whether it be in a public place or in a private home. They are*

*mediators of peace, under strict duty and discipline, and are extensions of the arm of the People in so far as law and order is concerned. They have no personal agenda or interest to fulfil when attending a crime scene and therefore should never be treated with hostility. They are there to keep the peace and protect life, limb and property. They can only use such force as is reasonable to diffuse any volatile situation, to disarm an offender or to protect property. When attacked in the manner that the Appellant has done, they cannot retaliate, this is why is so unfair and the courts take a very strong view against attacks against police officers. An immediate custodial sentence must be expected when any police officer is attacked. The length of sentence will depend on the existence of any aggravating features or the lack of it.....the normal range for this type of sentence would easily fall between 6 – 12 months.<sup>1</sup>*

21. In the like terms, the police and its members must also adhere to high standards of professionalism, honesty and integrity. Respect is a value that is earned. A failure on the part of the police and its members to maintain integrity will result in a lack of public confidence and trust and is very detrimental to the society at large.
22. I consider the costs of damages in this case. Clearly the costs will have to be borne by the tax payers in this country.
23. I take into account that the convicts pleaded guilty to the charges. They are young men and are first time offenders. Rehabilitation must also be considered when sentencing them.
24. I consider their personal circumstances.
25. I take into account the maximum penalties for the offences involved here.
26. In my view the appropriate sentence is as follows;
27. Mr. Kesaka is sentenced to;
  - a) 1 month imprisonment;
  - b) Bound over to be of good behaviour for 1 year in own recognisance and sum of \$300.
28. Mr. Kelly Bou is sentenced to;
  - a) Count 1            1 month imprisonment;
  - b) Count 2            8 months imprisonment;

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<sup>1</sup> [2004] SBHCA 131

- c) Count 3            2 months imprisonment;
- d) Count 4            14 days imprisonment;
- e) Count 5            14 days imprisonment;
- f) All sentences to be served concurrently – total sentence – 8 months imprisonment;
- g) Bound over to be of good behaviour for 1 year in own recognisance and sum of \$300.

29. Mr. Kesaka is to be released from custody at the rising of the court.

30. Right to appeal within 14 days.

Dated this 16<sup>th</sup> Day of December 2020

  
Ms. Fatimah Me'ere Taeburi  
Principal Magistrate

