

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

Criminal Case No: 292 of 2020



In the Criminal Jurisdiction

BETWEEN: REGINA

AND: BENJAMIN MAENA BULU

Before: Emily Z Vagibule

Ms Mae'ue for the Crown

Defendant self-represented

Date of hearing: 20th of March 2020

Date of sentence: 21st of March 2020

SENTENCE

1. Mr Benjamin Maena Bulu, you have entered guilty pleas for the count of careless driving, presence of alcohol in person's blood and taking vehicle without authority. The matter was then adjourned for sentencing. However, on the 18th of March when the matter was called for sentencing, an issue regarding count 3 was raised. I need not go further in that regard, since parties are well aware of what had transpired. With that, I then granted the application sought by prosecutions, to have count 3 withdrawn under section 190 (2) (b) (i) of the Criminal Procedure Code¹.
2. The facts before me shows, that on the 2nd of March 2020, around quarter to one (1) in the morning, you were driving a Toyota Caldina that bear the registration number: MA-8531. At that time, you were driving along the Mud Alley Street, in front of the Central Bank of Solomon Islands (CBSI). You were travelling on the westerly bound lane when you suddenly went off the road and crashed onto a flower bed in front of the Telekom Building next to the Central Bank of Solomon Islands. Facts described that your vehicle climbed onto that flower bed and rested there.
3. You were later dealt with by the officers at the Kukum Traffic Centre. Following that, you were then charged for the counts at hand. Since count 3 has now been withdrawn, this sentence will only focus on the count of careless driving and presence of alcohol in a person's blood. As stipulated by the Road and Transport Act, and

¹ SECTION 190(2)(b)(i) of CPC

the Penalties and Miscellaneous Amendment Act of 2009, the count of careless driving bear a maximum penalty of 5000 penalty units² or six months imprisonment³ or both. As for the count of presence of alcohol in a person's blood, the maximum penalty is 10000 penalty units⁴ or twelve months imprisonment or both.

4. This alone should reflect the stance taken by our legislators in light of the offending's at hand. I am sure that time, money and resources were used to ensure that the law at breach is endorsed and gazetted accordingly. Let us not be too ignorant of the law, especially when time, money and resources have been used up. The offences at hand are not the first of its kind. I have already dealt with a good number of cases such as this. On that note, there have been tough penalties imposed on previous offenders, but regardless of that, people are still doing the same thing over and over again.
5. It could be due to a very weak law enforcement body, or it could be due to, total ignorance of the law on the part of us as individuals. We Solomon Islanders are infested with a very deadly infestation which I prefer to label as the: **NO CARE ATTITUDE**. I have noted how some of us are so inconsiderate towards the law and other individuals. We tend to care less even when we know our actions are unlawful. The same can be said when we put the lives of others at risk.
6. I wish to reemphasise to you the fact, that a vehicle itself can be a weapon. People can lose their lives, if those driving vehicles are not considerate in the way they are driving. I do not know if, as a driver, you are aware of the duties entrusted on you towards other road users. When you drive a vehicle, many lives are in your hands. When you do something resulting in death or major damages, it will all come back to you. Just because there were no records of injuries and costly damages, means that I should take the offending's at hand lightly.
7. While each case should be assessed based on its own merits, we should not take advantage of the factors which the court must consider. It is ones responsibility to ensure that their actions are lawful.
8. With regards to the offence involving alcohol (count 2), I am sure that you are well aware of all the accidents that have occurred in and around Honiara, during the past months and years. I was not told whether there was an urgency behind your manner of driving, or whether what had happened was beyond your control. In terms of the latter, there was no indication of any mechanical fault that could have resulted in what was described in the facts.
9. The lawyer that was supposed to assist you in the sentencing and mitigation stage was not present. I am sure my orders have been

² Penalties and Miscellaneous Amendment Act 2009

³ Section 40(1) Road and Transport Act

⁴ Above, n2.

conveyed to him by Ms Rusi, who appeared on his instructions on the 18th of March 2020. While the lawyer concerned may have reasons behind his absence, he owes a duty towards the court. I will not entertain such attitude and strongly advise Counsels to respect the court in its entirety. At this stage, I need not say much, but I hope that this should be an experience in which you should learn from in the years to come.

10. With the evidence and the circumstances involved in this case, I am being reminded that this case should be determined based on its own merits. With this, I will be considering the following factors:

MITIGATING FACTORS

- (i) Your early guilty plea;
- (ii) The fact that you are a first time offender;
- (iii) Your remorse;
- (iv) Your cooperation in attending all court dates;
- (v) The fact that you are unrepresented; and
- (vi) Your personal circumstances.

AGGRAVATING FACTORS

- (i) Seriousness of the offence generally, as reflected by the maximum penalties of each offence;
- (ii) The level of culpability in this regard sits at the midrange of the seriousness involved.
- (iii) The time of the offending (night time).

11. In terms of sentence, I find that the law in breach, does not provide a proper guideline when it comes to the type of sentence the court should impose at the first instance⁵. Regardless of this, the court can still exercise its discretion to impose a sentence it deems fit.

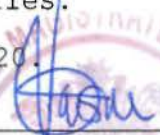
12. In their submissions, prosecutions have sought a sentence of fine which I also agree with. In terms of the maximum penalties involved, I am also mindful of the fact that, imposing the maximum should only be reserved for the most serious case. This morning, I will ensure that whatever amount I will impose, should send out a message of personal deterrence to you. Further to that, I will also ensure that there are sentiments for rehabilitation and retribution on your part.

13. With this and having weighed the entirety of this matter, I now order that you be sentenced as follows:

ORDERS

- (i) Count 1 a fine of SBD2050;
- (ii) Count 2 s fine of SBD3550;
- (iii) A total fine of SBD5600 which is due by April 30, 2020;
- (iv) In default of payment, six months imprisonment; and
- (v) Right of appeal applies.

Dated this 21st day of March 2020.



THE COURT
EMILY Z. VAGIBULE-MAGISTRATE

