

IN THE CENTRAL MAGISTRATES' COURT
OF SOLOMON ISLANDS

CRIMINAL JURISDICTION

CMC-CRC No. 348 of 2020

REGINA

v

MAX MAIO



Date of Sentence hearing: March 26, 2020.

Date of Sentence Ruling: March 27, 2020.

Police Constable WAOKEA for Prosecutions.

Accused in person

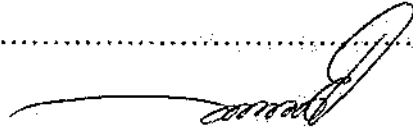
SENTENCE

1. You pleaded guilty to 3 counts of Domestic Violence contrary to section 4(1)(a) of the *Family Protection Act (FPA)* to be read with section 58 of the *FPA* and one count of Breach of Police Safety Notice contrary to section 59(1) of the *FPA*.
2. I convict you for all the charges on your own guilty plea.
3. The maximum penalty for each of the offences against you is 30,000 penalty units or imprisonment of 3 years or both imprisonment and fine.
4. The Victim is your wife, Mrs Mavis Sura. You lived with her for nine years and have a son of one years old together. On 28th February 2020 at around 5pm, you were at home at Choviri, Honiara and was drunk with Kwaso. You were noisy and caused disturbance to the victim and her two cousin sisters. They were in their rooms. You called them out to sit with you whilst you will drink. They did not answer to your call so you damaged their door knob and continued to be noisy. At around 12pm, you slept. Early in the morning, at 6am, you woke up and continued drinking kwaso. The victim woke up and you called her but she walked away, to the stairs. You pursued behind her and hit her on her back. She ran and you threw stones at her. She missed the stones and escaped. Later, you went and collected some trade goods from your matrimonial canteen and bartered them for kwaso drinks. The victim reported the incident to the Police. Police came to your home but you were not there. On 1st March 2020, Police came back and arrested you. You were then charged and was bailed to appear at the court on 23rd March 2020.

5. On 14th March 2020, you assaulted the victim by slapping the victim's shoulder. The victim went and reported to Police and you were again charged and was issued with a Police Safety Notice. Again, you were bailed to appear on 23rd March 2020.
6. On 21st March 2020, for the third time, you assaulted the Victim. You hit the Victim's left shoulder and kicked her left leg. This resulted in your breach to the Police Safety Notice. Police were called and you were arrested and charged for the third and fourth offences. And you were remanded in custody.
7. In your story to the court as part of your mitigation, you stated that you helped in your family's welfare and wellbeing through normal financial providence, house rental, cleaning and cooking but was heavily stressed from the Victim's mistreatment on you. You stated that she does not treat you as a husband because she swears at you and even told you, in one occasion, that you are a slave and not a husband. I wish not to state '*the-swears*' as they would be highly regarded as a taboo in the cultural context of Solomon Islands.
8. The victim, through her evidence in court, confirmed to your story and added that your matrimonial canteen was through you from your friend.
9. Given the confirmation from the Victim, I will accept your story to as a reason for to be stressed out and acted the way you did in the offending against the Victim.
10. Kwaso is an illegal alcohol. You know that. Drinking it during the commission of the first offending is serious. Being drunk during the first offending is serious. Drunk is a state where you depart from your normal senses when you are sober and act in ways that is susceptible to the offending, especially when you are already under stress and hold avengement thoughts against the Victim.
11. Using stones to hurt the Victim is serious. It can cause devastating results.
12. You breached the trust of your two sister-in-laws. You disturbed them while they were sleeping. You are the host of the house and mistreated them.
13. However, I take your early guilty plea to save courts time, resources and effort. You were very remorseful and accepted that you were wrong. You pleaded for mercy. You were provoked, stressed and misbehaved which resulted in the offending. You have a family with a child to assist with your fatherly obligations. You have no previous convictions.
14. I feel that you deserve to be angry with the Victim because of the mistreatment. But it does not give you any right under any law (not custom law) to do the way you did in assaulting the Victim. You should have addressed the problem reasonably and lawfully. You also have a good case against the Victim for psychological abuse and should have reported the matter to the Police. The Family Protection Act is not only to protect females. It is to protect everyone that is subject to domestic abuse.

15. You must be informed that Courts highly condemn domestic violence because of its prevalence and its seriousness.
16. You not only offend once, but three times. And breached a Police Safety Notice. It does not go well with you. It only shows you of a character to have the tendency to breach the law even though you are warned not to. You domestically abused the victim two times, after you were charged for the first count. You have no respect for the law. Being charged for that offence would warn you of serious implications if you continue to do the same. Yet you chose to.
17. You pleaded for mercy, and I believe your reason for acting the way did but for its unlawfulness.
18. I noted that the Victim preferred that you are warned and be released. But this is not the Victim's court. This is the peoples' court which I am presiding on behalf. The people highly and expressly condemn such offences.
19. Appropriately, imprisonment fits well to be your sentence. Deterrence must be loud and serious.
20. For the first offence, given that is aggravated, I sentence you to imprisonment of 18 months. I reduce six months for the mitigating factors.
21. For the second offence, I sentence you to 12 months imprisonment. I reduce 4 months for the mitigating factors.
22. For the third offence, I sentence you to 12 months imprisonment. I reduce 4 months for the mitigating factors.
23. For the fourth offence, I sentence you to 12 months imprisonment. I reduce 4 months for the mitigating factors.
24. I will apply concurrent sentence since all the offences are close to each other within a span of time in March and due to totality principle.
25. Given that you have had time in custody in the pre-detention period, you are now aware of how bad it is to be imprisoned. The Victim has asked also from this court to have you warned. The Prosecutions is appearing from the Victim and the country. For the sake of family matters, I am aware that courts should also be mindful to ensure that sentence do not destroy family life but to serve a very strong and have an Offender turn away from such offendings. This is what I think is appropriate for this case. However, I will ensure that you do not repeat it for two years. If you do within a period of two years, one year imprisonment will automatically be activated.
26. I now order the sentence:
 - i. 12 months imprisonment
 - ii. the 12 months imprisonment to be suspended fully for two years.

- iii. You are released at the rising of the court to serve your suspended sentence.
- iv. Right of Appeal to any aggrieved party within 14 days of this sentence Judgement.
- v. Order accordingly.



THE COURT

Ishmael Kekou – Magistrate First Class

