

CMC Criminal Case No. 366 of 2021, R v Raymond & Others



**IN THE CENTRAL MAGISTRATES' COURT  
OF SOLOMON ISLANDS AT HONIARA**  
(Criminal Jurisdiction)

Criminal Case No. 366 of 2021

**REGINA**

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**ALISTER RAYMOND  
CHRISTOPHER FOLE**

**Date of Hearing:** December 23, 2021

**Date of Ruling:** January 6, 2022

**Mr. Watson Akwai for the Prosecution**

**Mr. Daniel Kwai for the Defendant**

**SENTENCE**

- [1]. The Defendants, Mr. Alister Raymond and Christopher Fole are charged with a count each of *Willful and Unlawful Damage*, contrary to section 326 (1) of the Penal Code (Cap. 26), to be read with section 21 (c) of the said *Act*. They both appeared on December 3, and on arraignment, pled guilty. I also record a criminal conviction against both of them, and thereon matter successfully proceeded through sentencing hearing. The matter return today for sentence, I now do so.
  
- [2]. The facts have been accepted by both Prosecution and defence, and was signed. On an unknown date between July 1, 2019 and July 31, 2019, at about 7:00 p.m. the victim and his family were having stories underneath their dwelling house when they saw the two Defendants walked past their house. At this time, the Defendant, Alister Raymond, was seen walking in front with a torch in his left hand and followed by him was the Co-Defendant, Christopher Fole. The victim upon seeing them, was suspicious, so he alerted one of his son, namely; Levi, to follow them. His son, Levi, followed them and saw the Defendants pulled down some young coconut plants belonging to the victim's family. After damaging the young coconut plants, they return to their village, on the same route they came from. After the two Defendants left the scene, Levi collected some of the coconuts plants that were damaged, and return home. Upon his arrival at home, he

confirmed to his family that a total of Five (5) young coconut plants were destroyed by the Defendants. The damaged plants were about 3 months old.

- [3]. The case emanated out of a land dispute issue between the parties, and the Defendants took the law into their own hands to damage the coconut plants belonging to the victim. It saddens me to see these young individuals, succumbing to such malevolence and no care attitude.
- [4]. The offence was committed at night, which portrays the Defendants' criminal mind, and the careful calculation behind the scene. They did the offence together, or in company of the other, which aggravates it. Unfortunately, the value of five (5) damaged coconut plants was not provided to court. Thus, I could not easily assimilate the value to the nature of damage. In the absence of the value, I shall glean on the above factors to pitch the starting point.
- [5]. The offence of Wilful and Unlawful Damage, under section 326 (1) of the Penal Code. Provides a maximum penalty of 2 years' imprisonment, being a misdemeanor. Nonetheless, cases are judged on their individual facts. And, the nature and circumstance would justify where it would fall in the established tariff. For this offence, I accept that the sentence ranges from good behavior bond, fines, to custodial terms, in the most serious circumstances. In this case, I agree, it is neither serious nor moderate, rather one that could be suitably placed at the lower end of the tariff.
- [6]. The Defendants are both young and first-offenders. They pleaded guilty at the earliest chance, and demonstrated genuine remorse for what they had done. They both travelled to Honiara from Isabel, after their matter was transferred to the Central Magistrates' Court, to make sure that it expeditiously progressed.
- [7]. I believe they have realized the extent of their unlawful action, and perhaps, envisioning on making a change for better. What they did was outright unlawful, and cannot vindicate the impasse they have with the victim's party on the land dispute. In fact, they have directed their grievances and disagreement on a misconceived route, which has landed them before this Court.

- [8]. It must be clear that, committing a wrong against an already deteriorated relationship will never bring a right or proper result. Instead, it will only exacerbate the situation, and more trouble upon themselves. I understand that they are young, which explains their quick reaction and hardheadedness, but they must understand that, everyone is responsible for their own actions, and when the law bites, it stings.
- [9]. The Defendants must work to improve their self-control, so that it does not lead them back to this Court in the future. Today, I am confident that, since they are first-offenders, specific deterrence would be of less significance, instead rehabilitation should be the overarching goal, which must run in conjunction to general deterrence. Likeminded perpetrators or those who wish to revert to unlawful damage and other violent means to demonstrate their frustration will force themselves to confront the wrath of the law.
- [10]. The Defendants are young individuals who have bright potential future, and I am certain, the blunder have serve some lesson for them to acknowledge the rule of law. The court will continue to condemn actions of taking the law into one's own hands, thus, I urge them to take constructive steps in making a change, to either leave the land disputes to responsible adults to deal with it, or settle the issue in a peaceful, biblical and lawful way.
- [11]. Having taken into account the circumstance of offending and the aggravating factors, and weighing them to the mitigating factors; I agree, a sentence of fine would be appropriate in this matter, however, of the view that since it is a matter between relatives, a sentence that would involve a resolution to the issue between parties will serve the interest of justice, and of the parties as a whole. Thus, of the opinion that any fine sentence must be substituted under section 27 of the Penal Code, for the Defendants to instead, pay compensation to the victim for loss and damage to the coconut plants. The Prosecution have asked the Court to impose a fine sentence in conjunction or in addition to the compensation order. I disagree, the facts and circumstance of this matter does not warrant such harsh punishment, and given their young age and, unclear employment status, I do not wish to indulge on what would in effect put more punishment than what is expected of the nature of crime committed.
- [12]. Accordingly, I hereby invoke s. 27 of the Penal Code (Cap. 26), to order substituting the fine sentence with compensation order. The Defendants, Mr. Raymond Alister and

Christopher Fole, must pay to the victim, Mr. Daniel Authegna, the amount of \$200.00 each, as compensation for the damages they had done to the five (5) coconut plants.

- [13]. The Defendants must pay the compensation amount before, or by February 6, 2022
- [14]. Failure to pay the compensation amount, will prompt a re-arrest of the Defendants, and they shall be brought before this court to explain the non-payment, and for the court to decide on imposing alternative sentence methods.
- [15]. The Royal Solomon Islands Police Force, is authorized to facilitate the payment of the compensation order, and prepare a police statement to confirm the event, to assist the court.
- [16]. Conviction is entered.
- [17]. Right of appeal applies within 14 days from today.
- [18]. Order accordingly.

