



IN THE CENTRAL MAGISTRATES COURT OF SOLOMON ISLANDS

AT HONIARA

(Criminal Jurisdiction)

Criminal Case No: 955 of 2021

REGINA

-V-

FRANCIS KOTIU KEGOLA

CORAM: HOLLISON F (PRINCIPAL MAGISTRATE)

Appearances:

Date of Sentence: 13 January 2022

Notice: *This copy of the Court's Reasons for Judgment/Sentence is subject to formal revision prior to publication.*

SENTENCE

INTRODUCTION

1. The defendant Mr Francis Kotiu Kegola is charged with one count of *Restriction of Movement of Persons in Honiara: contrary to Regulation 5(1), (2) (a) and (b); and 9(1) of the Preservation of Public Security Regulations 2021* and section 3 of the *Preservation of Public Security Act* [Cap 27] (No. 2) and 21(a) of the *Penal Code* [Cap 26].
2. He had pleaded guilty to the said charge and I now convict him accordingly.

FACTS

3. The facts can be summarized as follows.
4. On the 24th November 2021, riots broke out in Honiara which resulted in the death of three people and the scorching of many Chinese owned shops in Chinatown and other parts of Honiara worth millions of dollars.
5. From the 26th of November 2021 from 7pm to 6am on a daily basis, the government imposed a curfew which was effective until its revocation on the 10th December 2021 as one of the measures to contain the lawlessness. The government also sought assistance from Australia,

*(a) enters or leaves the emergency zone, or leaves his or her place of residence,
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because of a matter of urgency; or
(b) is exempted from complying with this Order under regulation 6; or
(c) is exempted in writing from complying with this Order by the
Commissioner of Police.*

13. Regulation 9 of the *Preservation of Public Security Regulations (No. 2) 2021* states as follows:

*(1) A person who contravenes regulation 5 commits an offence.
Maximum penalty: 10,000 penalty units or 5 years' imprisonment, or both.*

Aggravating Factors

14. **Maximum Sentence.** The maximum sentence of 5 years or SBD 10, 000 or both is an indication that this is quite a serious offence.

15. **Circumstances of the offending.** The regulations were made for the preservation of public safety in Honiara aimed at containing the riots, burning and looting of shops and other private businesses. The riots and looting between the 24th and 26th of November 2021 had resulted in the scorching of more than 50 buildings and destruction of business houses with the total loss of more the 500 million dollars (SBD).

Mitigating factors.

16. The mitigating factors which are relevant for the defendant include the following: early plea and remorse, cooperation with the Police and his personal circumstances.

Starting Point

17. There are a number of sentencing options that are available which are penalty fine, custodial and suspended sentences,

18. After having considered all the factors, I am of the view that this case must attract an immediate custodial sentence.

19. I am of the view that this present offence should be considered as falling towards the lower end of the scale in terms of its severity because it occurred more than a week after the unrest, hence, I am satisfied that a starting point of 10 months' imprisonment is appropriate for the defendant.

ORDERS

36. The defendant is sentenced as follows:

- [1] The defendant Mr Francis Kotiu Kegola is sentenced to 4 months imprisonment for one count of *Restriction of Movement of Persons in Honiara: contrary to Regulation 5(1), (2) (a) and (b); and 9(1) of the Preservation of Public Security Regulations 2021* and section 3 of the *Preservation of Public Security Act [Cap 27]* and 21(a) of the *Penal Code [Cap 26]*.
- [2] The sentence shall be backdated to the 8th of December 2021, being the date of first arrest/remand.
- [3] The defendant shall serve his 30 days' imprisonment after having completed this present case for not paying up his fine in the Criminal Case No. 788 of 2020.
- [4] Right of Appeal within 14 days.
- [5] The court so orders.

