

CMC Criminal Case No. 906 of 2021, R v Taega & Others

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

Criminal Case No. 906 of 2021

**REGINA**

-v-

**JOHN TAEGA**

**JOSEPH FAFALE**



**Date of Plea:** January 12, 2022  
**Date of Hearing:** January 14, 2022  
**Date of Sentence:** January 17, 2022

Ms. Martha Mutukera with Monica Rehomora for the Crown  
Mr. Paul None Olisi for the Defendant

**SENTENCE**

- [1]. The Defendants, Mr. John Taega and Joseph Fafale, are charged together with an offence of Behaving in a Riotous Manner, contrary to section 175 (d) of the Penal Code (Cap. 26). Upon taking their pleas, the Defendants pled guilty. As such, criminal convictions were thereby entered. The matter return to Court this morning, for sentence. I now delve into discuss my reasoning.
- [2]. Solomon Islands went into a standstill, jaw-dropping, and shattering moment, on the days from November 24 to 26, 2021; the nation saw lawlessness engulfed our streets as rioters rampaged the capital city, Honiara: looting, ransacking, destroying, and burning shops and buildings. People were left homeless, jobless, and for some, losing all that they had built for years. A moment that no words could ever describe, no mind could even fathom. And, even the country's economy has consequently, suffered a significant impact, and loss, which was estimated to be around \$534 million, including loss in value of goods, and building infrastructure<sup>1</sup>.

<sup>1</sup> Central Bank of Solomon Islands, 'Riot Impact Assessment November 2021', accessed at <https://www.cbsi.com.sb/riot-impact-assessment-november-2021/>

- [3]. The two Defendants were part of those rioters, who were located at the Eastern end of the town, Henderson. The agreed facts states, on November 24, 2021, between 2:00 p.m. and 3:00 p.m., a patrol team from Henderson Police Station were travelling in a police vehicle heading easterly direction to Henderson Police Station. As they reached the main road, between the Prime Minister's residential area and a new Chinese shop next to it, they slowed down their vehicle, as there were three tires placed across the road, blocking the main road. At this time, they spotted the two Defendants at the scene. Both Defendants tried to escape by running eastern side, but were caught by the patrol team of police officers. They were eventually apprehended and arrested. Later, the police found a Solbrew bottle containing petrol and an orange lighter (match) in possession by the Defendant, Joseph Fafale. They also discovered a bottle of mineral water (1.5 liters) containing petrol in possession by the Defendant John Taega, and he was drunk at that time of offending. On November 28, 2021, the Defendants participated in an interview with police. The Defendant, John Taega, admitted that his leaders advised him to pour the petrol on the tires that had already been placed across the road by some other people in the crowd. Taega further admitted that he was about to pour the petrol on the tires when police arrived at the scene.
- [4]. The offence of "behaving in a riotous manner" under S. 175 (d), holds a maximum punishment of two months' imprisonment, or a fine of \$600.00 (six hundred dollars). The seriousness of the offence is said to be described by the maximum penalty. However, cases are decided according to its own peculiar and pertinent facts. In my opinion, due to the rise in the number of riots and lootings that the country had recently experienced; it is high time that our legislators consider reviewing this law. The Magistrates' Court is a creature of statute, thus, is bound to operate within the boundary prescribed by the law. In this case, although serious in its nature, my hands are fastened, and to impose a sentence within the tariff of two months and below.
- [5]. The Crown submitting on the aggravating factors, says that the Defendants were the principal contributors to the chaos and destruction that developed on November 24, 2021. The crown says that, the Court in deciding on the appropriate sentence for the Defendants, must consider the totality of facts, as oppose to applying their participation in isolation. I agree with the view shared in the case of R v. Caird (1970) 54 Cr. App. R. 499, in which Sachs L.J., stated:

"Any participation whatever, irrespective of its precise form, in an unlawful or riotous assembly of this type derives its gravity from becoming one of those who, by weight of numbers, pursued a common and unlawful purpose. The law of this country has always leaned heavily against those who, to attain such a purpose, use the threat that lies in the power of numbers.

...In the view of this Court, it is a wholly wrong approach to take the acts of any individual participator in isolation. They were not committed in isolation and, as already indicated, it is that very fact that constitutes the gravity of the offence."  
(Underlining mine)

- [6]. Second, the Defendants were in possession of dangerous and flammable implements, and they were burning tires across the road when the Police got to them. Mr. Fafale, had with him a Solbrew bottle containing petrol and an orange lighter, and Mr. Taega had a bottle of mineral water (1.5 liters) containing petrol. Mr. Taega, was also intoxicated at that time of offending. He admitted that their leaders advised him to pour the petrol on the tires that had already been placed across the road by some other people in the crowd.
- [7]. Ms. Mutukera, submits that the Court in imposing a sentence against the two Defendants must consider both, specific and general deterrence. She states that the Court should condemn the use of violence or property destruction to resolve disputes. And, that there is a need to deter others who may seek to cause devastation and destruction within our community.
- [8]. Mr. None of counsel for the Defendants, submitted that both Defendants entered guilty pleas, which demonstrates remorse on their part, as well as, saving a great deal of time, resource and money, if matter is to proceed to trial. Second, he submits that they are both first-offenders, and it is unlikely that they will reoffend in the future. He further submits that, since both Defendants have been in custody for over a month, the Court should impose a sentence of imprisonment, and subsequently, order a release at the rising of the Court.
- [9]. I am grateful for the assistance rendered by both counsels, to assist in providing case authorities, for this court to consider and decide on the appropriate punishment for these

Defendants. However, the most reliable one, which I'm inclined to consider is, *P v. Baldwin Leo*<sup>2</sup> ("Leo"). In this case, the accused was charged with the similar offence of Behave in a Riotous Manner under section 175 (d) of the Penal Code. The facts were that, he was involved in throwing stones at the police and swearing at them. He was also amongst the crowd having in riotous manner in China Town. The Chief Magistrate, sentenced the accused to a month imprisonment.

- [10]. Having balanced the above cited case, to the one before hand, I am certain that they are quite similar and related to the recent riot. Here, the Defendants were part of a large group, burning tires on the public road at Henderson, and holding with them dangerous and flammable materials. They were part of the group that was responsible for the damage and destruction to the properties at Henderson.
- [11]. The Defendants had voluntarily joined the group of rioters that rampaged the Eastern end of Honiara, specifically, Henderson area. In an attempt to convey their disagreement to the Government, or perhaps, imply taking advantage of the civil unrest. They have now suffered the consequence for their actions. This is a clear attitude problem that our nation is currently breeding, and if not curtailed now, may spiraled out of control in the foreseeable future.
- [12]. Those who wish to publicize the act of lawlessness and chaos must feel the friction of the wrath of law. There is no justification for destroying properties, burning buildings and do all sorts of chaos; instead, an outright foolish and silly behavior, which contradicts all the principles under the rule of law.
- [13]. They must understand that, their participation had led to the huge disaster leaving so many people, jobless, homeless, and without hope for life. I could not comprehend why they would be easily drawn to such an unlawful crowd. However, understand that it could be of laziness and no care attitude. I believe their time in police custody and thereafter, in remand, had served them lesson, to never repeat such an offence or involve in anything that will cause a terrible disaster to this nation.

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<sup>2</sup> Criminal Case No. 878 of 2021

- [14]. I am shocked to note that both of them are married men with families. This is just sad; how can one be so confident to involve in such unruly behavior and expect to raise his children properly. The children who we expect to be the next generation of this Country. It is time they examine themselves and reset their lives' journey. Violence, disorderly behavior, and rioting behavior will only bring more problems and troubles, for them and their immediate family members. They must recognize that, nothing in life comes easy, we must sweat to get the best of our fruits; pleasures obtained out of illegal and violent way will last only for a short while, but its negative impacts, and pain will last a lifetime.
- [15]. The sentence that the Court will impose must equally, convey a message to like-minded perpetrators, or those who may wish to travel down the same path, that the Court condemns the use of violence or property destruction to resolve disputes. But, if they dare travel down this route, they may expect similar or much harsher punishment. Today, I am of the view, that a sentence of imprisonment is inevitable.

#### SENTENCE ORDER

- [16]. Having discussed the above, I hereby make the following orders:

- (1) I hereby sentenced the Defendants, John Taega and Joseph Fafale to 1 month imprisonment.
- (2) Sentence to commence from date of first remand.
- (3) I order that the Defendants be released at the rising of the Court.
- (4) Conviction is entered.
- (5) Right of Appeal applies within 14 days.
- (6) Order accordingly.

