

**In the Central District Magistrate Court
Of Solomon Islands**

Criminal Case No:

164 of 2022



REGINA

V

MARVIN PARINA

Mr. Tonowane and Mr. Tamakia (DPP) for the Crown
Ms. Silas and Ms. Happilyn (PSO) for the accused

Date of Trial: 23rd to 30th June 2023

Date of Judgment: 7th July 2023

Date of Sentence: 22nd August 2023

SENTENCE

PM Taeburi,

1. The prisoner was convicted after trial on one count of unlawful wounding and two counts of assault causing actual bodily harm contrary to the Penal Code.¹
2. It was found that he assaulted the three victims using a chain saw chain during an incident at Tulagi Station. He held a cloth with the chain in his right hand. He swung the chain towards the first victim injuring the victim's hand. He then turned around and swung the same chain at the second victim causing a very serious injury to the victim's head and a minor injury to his chest. He swung the chain yet again to the third victim injuring the victim's arm.
3. It has also been found that the second victim in the unlawful wounding charge suffered severely after being attacked. He fell unconscious and was bleeding heavily. The other two victims also suffered although not as seriously as the second victim. The victims were assisted to the Tulagi Hospital after they were attacked and were medically treated.

¹ See charge filed 17th June 2022.

4. It was found that the prisoner initiated the first attack and that he was not acting in self-defence. It was also found at trial that he was armed with the chain before he met the victim's group along the road.
5. In sentencing the convict, I take into account the following aggravating factors;
 - a) He used a chain – the chain is considered a very dangerous and lethal weapon which can cause very serious injuries if used on any person. The wounds suffered by the victims are an example of the potential harm that can be caused when a chain saw chain is used for the wrong purposes.
 - b) The injuries sustained by the victims, especially the second victim, are very serious in my view. The second victim was struck on his head. I consider the attack on the second victim as life-threatening. The human head is a vulnerable part of the human body. An attack to the head could result in death or very serious physical and mental injuries.
 - c) The attack was carried out at night time.
 - d) The attack was pre-meditated – it has been proved in this case that the convict was informed of the fights between his son and the victims at Tulagi earlier on that day. It was shown that upon hearing the information, he paddled across from his home village to Tulagi. It was shown that he then walked to Cut Hill where he attacked his victims. It was found that he already possessed the chain in his right and wrapped with a cloth when he initiated the first attack on his first victim. From the facts it is clear that there must have been some pre-planning before he attacked his victims at the Cut Hill at Tulagi.
 - e) He attacked three people in the one incident – In my view that fact that the prisoner attacked three people at one time makes this case more serious compared to other cases of assault. He did not injure one but three people at the same time.
 - f) He was the instigator of violence – the facts proved in this case shows that he initiated the fight. First he challenged his first victim by words, then he strike his first victim, followed by a series of attacks.
 - g) There were at least 2 children in the victim's group at the time of the fight – the facts proved shows that the first and second victims were carrying children when the prisoner attacked his victims with the chain. In my view, he showed no concern for the children when he swung the chain at the victims. It is without a doubt that he saw the children being carried by the victims. That did not stop him from attacking the victims therefore putting the children's lives in danger. I consider the fear and the terror that these two children felt and experienced at the time.
 - h) I also consider the suffering and pain that the three victims had to endure as a result of the prisoner's actions that day.

6. In mitigating, I consider the following factors;
- a) The prisoner has no previous convictions.
 - b) He is a man of 35 years old. He is married and he has a family and children.
7. The maximum penalty for unlawful wounding is 5 years imprisonment.²
8. The maximum penalty for assault causing actual bodily harm is also 5 years imprisonment.³
9. In the circumstances of this case, I think that the appropriate sentences are as follows;
- a) Count 1 – unlawful wounding – 2 years imprisonment;
 - b) Count 2 – assault causing actual bodily harm – 8 months imprisonment;
 - c) Count 3 – assault causing actual bodily harm – 8 months imprisonment;
 - d) All sentences are to be served concurrently;
 - e) In total the prisoner is sentenced to 2 years imprisonment;
 - f) The time spent in custody is included in this sentence.
10. Right to appeal within 14 days from today.

Dated this 22nd Day of August 2023


Principal Magistrate – Ms. Fatimah Me'ere Taeburi



² Section 229 of the Penal Code [Cap 26.].

³ Section 245 of the Penal Code [Cap 26.].