

**In the Central Magistrate's Court
Of Solomon Islands**

Criminal Case No: 261 of 2023



REGINA

V

RICHARD KARU

Date of Sentence: 17th January 2024

Counsel Mr. Beto (DPP) for the Crown

Counsel Mr. Nomae (PSO) for the Accused

SENTENCE

PM Taeburi,

1. The defendant Richard KARU pleaded guilty to one count of simple larceny contrary to section 261(1) of the Penal Code.¹
2. He stole from his employer, a man from Philippines. He stole electrical and hand tools from the complainant. He then sold the stolen properties to third parties. The complainant reported the matter to the police and they retrieved the stolen items.
3. I enter conviction against the accused based on these facts.
4. The fact that he stole from his employer is an aggravating factor. Every time an employee steals from his employer, there is a breach of trust. In the case of *Fiuadi v Reginam*, it was stated as follows;

The principle involved here is that the appellant, as an employee of the Marine Department, was in a position of trust. Any offence of dishonesty is serious but, when it is committed by a person in a position of trust in breach of the trust placed in him, it is more serious.

¹ Refer to amended charge filed 5th January 2024

An employee, by the nature of his employment, always has the opportunity to steal his employer's property. The public service and all commercial undertakings can only function properly if they can rely on the loyalty and honesty of the people they employ.

It must be clearly understood that in any offence where a breach of trust is involved a sentence of imprisonment will always be appropriate.²

5. I adopt the same legal principle here and I consider the circumstances of this offending as serious due to the relationship between the accused and the complainant and the breach of trust involved.
6. I take into account the following mitigating factors;
 - a) The convict pleaded guilty. As stated in many cases authorities, a guilty plea would normally attract a reduction in the sentence that should have been imposed otherwise. (*See Gereaa v Regina*).³ I give due credit to this convict for the guilty plea entered.
 - b) I consider that he has no previous convictions.
 - c) He is a young man of 23 years old. In my view, a young offender, with a clean criminal history who admits his wrong doings demonstrates a higher possibility of rehabilitation compared to other offenders.
 - d) I consider that the properties stolen were recovered. This means that the complainant does not suffer any actual loss. Nevertheless, the facts show that the police were very instrumental in the recovery. The convict said that he had spent monies for the return of the properties, but these are just consequences of his unlawful actions and that he must bear the costs for recovery.
 - e) I consider the personal circumstances of the convict.
7. The maximum penalty for the offence of simple larceny is 5 years imprisonment as provided in the general punishment for theft in section 261(1) of the Penal Code.⁴
8. I refer to the case of *Regina v Tata*, where one of the accused was convicted on one count of simple larceny and was sentenced to 12 months imprisonment. He pleaded guilty. He was a first time offender. He stole \$300 and it was not recovered. Tata was also convicted on another charge. The High Court in *Tata* said that the sentencing range for simple larceny offences is 18 months imprisonment to suspended sentence.⁵
9. In this case, I place substantial weight on the fact that he is a young offender with no criminal record together with the fact that the complainant suffers no real loss. I consider very seriously the sentencing principle of rehabilitation. Although breach of trust is a

² *Fiuadi v Reginam* [1989] SBHC 17; [1988 – 1989] SILR 150 (12 December 1989)

³ *Gereaa v Regina* [2005] SBHC 34; HCSI –CRAC 243 of 2004 (4 February 2005)

⁴ Section 261(1) Penal Code [Cap 26]

⁵ *Regina v Tata* [2021] SBHC 151; HCSI – CRC 07 of 2020 (1 November 2021)

serious element in this case, I think that the principle of rehabilitation must be given equal consideration.

10. After considering all circumstances in the case, the court orders as follows;

11. ORDERS:

- i. **Richard KARU is convicted on one count of simple larceny contrary to section 261(1) of the Penal Code.**
- ii. **He is sentenced to 1 year imprisonment.**
- iii. **The sentence is fully suspended for two years on the condition that he does not re-offend for the period two years.**

12. Right to appeal within 14 days.

Dated this 17th Day of January 2024



Principal Magistrate – Ms. Fatimah Me'ere Taeburi