

IN THE CENTRAL MAGISTRATE'S COURT)
OF SOLOMON ISLANDS) Criminal Case No. 240 of 2024

At Honiara

(Criminal Jurisdiction)

REX

-v-

JUNIOR JACK HAIKEU

Dates of Plea: 26th August 2024
Date of Hearing: 7th October 2024
Date of sentence: 30th October 2024

Mr. Herrick Lautalo for the Prosecution
Mr. Lazarus Waroka for the Accused

SENTENCE

1. The Accused Mr. Haikeu entered guilty plea on one count of *House Breaking and committing felony contrary to section 300 (a) of the Penal Code*. Mr. Haikeu took his plea on the 26th of August 2024. Sentencing and Mitigations submissions have been conducted on the 7th of October 2024.

2. I now deliver the sentence Mr Haikeu.

Agreed Facts

3. The facts reveal that on 22nd April, 2024 at around 8:00am, the complainant arrived at his residence at Tasahe B area from his work place at Alligator Creek and noticed that his gate was slightly opened. He went inside his house and found a mess. There, he suspects that someone might've have access inside his house during his absence.
4. Later, he found out that his properties, such as a 5x laptop, 2x external drive, 1 x electrical drill, 1 x blender machine, and 1 x telescope were missing. These properties are \$65,800 SBD
5. The complainant checked around his house to find access into the house, and at the main door, he found scratches from a sharp object at the door frame that damaged the lock. He then informed his neighbour, namely Mathew Punufimana, who was assigned to look after his house in his absence.

6. The complainant then informed a Police Officer who was also resided in the same area at Tasahe B, and there the case was filed against the defendant at White River Police Station.
7. The accused was later arrested by Police on 7th of May 2024, formally charged and placed in cell for further dealings. On the same day, on 7th of May 2024 the accused participated in a record of interview under caution with the Police, and he admitted to breaking into the complainant's house.
8. There was no recovery of the missing items from the defendant.
9. The complainant checked around his house, and found scratches from a sharp object at the door frame that damaged the lock. He then informed his neighbour, namely Mathew Punufimana, who was assigned to look after his house in his absence.
10. The complainant then informed a Police Officer who also resided in the same area at Tasahe B, and there the case was filed against the defendant at White River Police station.
11. The accused was later arrested by police on 7th May 2024, formally charged, and placed in cell for further dealings. On the same day, on 7th May 2024, the accused participated in a record of an interview under caution with the Police, and he admitted to breaking into the complainant's house.
12. There was no recovery of the missing items from the accused.

Aggravating Features

These are the aggravating features that are present in this case:

13. Firstly, the value of goods stolen was about \$65,800 SBD. This is a significant amount of goods stolen from the complainant. It is no doubt that the action of the accused had caused financial loss to the complainant. This will definitely put the complainant in a much financially disadvantaged position having to replace the products that were stolen by the accused.
14. Secondly, the Prevalence of this kind of offending. The courts have seen an increased in this kind of offending coming before the courts and requires serious attention and action.
15. Thirdly, Repeated offender. The accused was recently convicted on a similar charge against the same complainant, some days after the offending on the 22nd of April 2024.

This clearly shows that the accused had no respect for other people's property. The unlawfulness and culpability of his actions.

16. Fourthly, the general ransacking of the complainants house. The complainant arrived home to find that his house was in a mess, the door had some scratches on the lock, which needs to be fixed. This again puts the complainant in another financial burden had it not for the actions of the accused.
17. Prosecution submits that there was pre- planning prior to the offending. There is little if any details regarding pre – planning on the agreed facts. The agreed facts stated that the accused made admission to his involvement to the offending, but there were no details regarding any planning by the accused prior to the offending. I am reluctant to include it as an aggravating feature.

Mitigating Features

These are the mitigating features that are present in this case:

18. The accused entered early guilty plea which demonstrates acceptance for his wrongs, he was genuinely remorseful for what he did. His pleas have reserves much of court's time and other resources to proceed with a trial. Therefore, I provide the available 25% discount in case of *Qoloni*.
19. Cooperation with the Police. The accused had cooperated well with the Police during the Investigation stage.
20. Young Offender. The accused was 20 years old at the time when he committed the offending on 22nd April 2024.
21. Counsel for the accused submits that since the incident on April 22, 2024, the accused has not re-offended. However, I find this hard to believe, as the accused committed a similar offense on April 29, 2024, just a few days after the initial incident.

Personal Circumstances for Mr Junior Jack

22. He is 21 years of age
23. Currently lives with his father Jack Haikiu and mother Joyce Haikiu at Tasahe B area.
24. He has three siblings, and he is the youngest of them all.
25. He had been attending F3 at Community High School in 2019, but unable to reach the end.

Sentencing Tariff

26. I am grateful to Counsels for providing me with case authorities that have assisted me in pitching the appropriate starting point in this case. The following are some of those authorities:
27. In *Pitamama v R¹*, the accused pleaded guilty to one count of housebreaking and one count of simple larceny. He had 32 priors of similar nature. He was an adult at the time of offending and had broken into the precincts of the magistrate's court, whereby some of the properties stolen were recovered. He was sentenced to 4 yrs imprisonment and each count to be served concurrently. He appealed against his sentence, and the High Court reduced the sentence for housebreaking to 3 years' imprisonment. The High Court stated that the lower court did not give due consideration to the following factors; Early guilty plea, a substantial part of what was stolen was recovered, and the fact that the appellant did attempt to live a normal crime free life.
28. In *Mala v R²*, the appellant was sentenced to 1 ½ years' imprisonment following his guilty plea on a count of Housebreaking and committing felony, contrary to section 300 (a) of the Penal Code (Cap 26). He appealed his sentence on the basis that it was manifestly excessive. The High Court allowed the appeal and the sentence of 1 ½ years' imprisonment was quashed and substituted with 6 months' imprisonment.
29. In *Regina v Walter Bona³*, the accused was charged with one count of housebreaking and committing a felony. The accused broke into the Yandina Telekom Office by climbing over the fence and broke into the flooring of the building and stole \$18,000.00 and 5 mobile phone headsets. Only \$6,000 and two headsets were recovered. He was sentenced to 6 months' imprisonment.
30. In the circumstances of this present case, there was no recovery of the stolen properties. However, Counsel for the accused stated that some of the properties stolen was recovered. But the agreed facts stated otherwise.
31. In the case of *R v Zont⁴*, the defendant during the night, in company of another broke and entered a warehouse building owned by Mr Cheng. That building was located along the Prince Philip Highway at Kukum in Honiara. It was a sophisticated and carefully planned break in. The total value of all the properties stolen was \$22,243.80 SBD. Only 2 mobile phones and a hard disc were recovered by Police during the Police investigation. The Court sentenced the 17-year-old offender to 14 months' imprisonment following a guilty plea to the charge.

¹ [2005] SBHC 45; HCSI –CRC 003 of 2005

² [2021] SBHC 131; HCSI – CRC 155 of 2021

³ [2017] SBMC 6; Criminal Case 511 of 2016

⁴ [2016] SBMC 10; Criminal Case 655 of 2015

32. In *Regina v Onumumu*⁵, four defendants pleaded guilty to a count of housebreaking, c/s to s300 (a) of the Penal Code. The case is premised on the facts that the defendants entered the premises of GIPPOL Construction Office. They cut the fence to gain entry. Once inside the fence they proceeded straight to the building and entered inside by using a pinch bar to lever up the door. They went through that door and further entered inside the building by unlocking other doors. They then removed the company's valuable properties that worth \$37,913 SBD. The Court after considering all the mitigating and personal features, the aggravating features and weighed them against the objective seriousness of this offence, the appropriate head sentence for each of the defendants is 3 years imprisonment. The Court further take into account the Utilitarian value of their guilty pleas and ordered their sentences as follows; Walter Onumumu -31 months imprisonment, Martin Mepeni – 30 months imprisonment, Jeffrey Miveabu – 30 months imprisonment, and MichaLA Lano – 30 months imprisonment.

Sentence Consideration

33. Counsel for the accused further submits that the reason for the offending was that the complainant's house was not locked. This is interesting, as the agreed facts indicate that the door lock was damaged, suggesting that someone had broken the door to gain entry to the house. It is unfortunate when Counsels submit sloppy work to the Court. It is the duty of all legal practitioners to assist the Court in the case before it by ensuring that the Court has a proper understanding of the details of the case. As a legal practitioner you are ethically bound to assist the court in that manner.
34. Needless to say, the fact that the complainant's house was not locked does not grant the accused the right to let himself onto someone else's property. That is morally wrong and illegal.
35. The agreed facts were not clear as to how the commission of the offence occurred, except for the fact that the accused admitted to his involvement in the offending that occurred on 22nd April 2024.
36. Having stated the above and assessed the aggravating factors with the circumstance of offending, I placed his level of culpability on the mid-range. Accordingly, using the case of *Reginam v Bade*⁶ as beacon, I impose the following starting point:

Mr. Haikeu Junior Jack

- a. House Breaking contrary to section 300 (a) (2) of the Penal Code – 1 ½ years' imprisonment.

⁵ [2016] SBMC 15; Criminal Case 181 of 2016

⁶ At Paragraph 6 of His Lordship's Decision; "(6) for a normal burglary case the only appropriate penalty must be an immediate custodial sentence. Where the burglary is not aggravated in any way the starting point for an adult first offender should be two years imprisonment."

37. For the presence of the aggravating features, mainly that the value of the properties stolen was substantial, and not recovered, general ransacking of the house, and the loss the complainant now faces. I depart from the Initial starting point of 2 years imprisonment as stated in the case of *Pitamama v R*⁷, since the offending was committed by one individual, and that there was no pre-planning. For this aggravating feature I add 6 months for the accused.
38. For his early guilty plea, I allow the available 25% discount in case of *Qoloni* that is 6 months deduction. I also deduct 4 months to consider his mitigating factors, and further reduce 4 months to consider his personal circumstances.
39. The sentence that the Court will impose will consider both general and specific deterrence. The sentence must send a clear message to like-minded people, that the Courts will not tolerate such action, and that the consequences will be severe. It must also be made clear to the accused, that if he continued down this path, it would only lead to severe challenges, not only for himself, but also his family.
40. In sentencing the accused, I am reminded that he is a young offender who has a good prospect for rehabilitation.
41. The resulting sentence is that, Mr Junior Jack Haikeu – **12 months imprisonment.**
42. I must emphasize that his sentence should serve as a clear warning to the accused not to follow this path again. If he continues down this road, it will do him no good; only more consequences and severe punishment await. Mr Haikeu every choice you make shapes your future, I hope you make better choices after this.

Sentence Orders:

43. Mr Haikeu is convicted on one count of Housebreaking and committing felony, contrary to s300 (a) of the Penal Code, and hereby sentence you as follows:
1. Mr. Junior Jack Haikeu – **12 months' imprisonment.**
 2. The sentences to commence from date of first remand.
 3. 14 days right of appeal applies.
 4. Order accordingly.

THE COURT



MRS. DALCY .B. OLIGARI

Principal Magistrate



⁷ [2005] SBHC 45; HCSI -CRC 003 of 2005