

IN THE CENTRAL MAGISTRATES COURT  
OF SOLOMON ISLANDS



Criminal Jurisdiction

Crim. Case No. 181 of 2025

Sentence delivered on the 28<sup>th</sup> day of April 2025

BETWEEN: REX Complainant  
AND: ROBERT KOI KUPER Accused

**SENTENCE**

- 1) On the 8<sup>th</sup> of February 2025 at around 0030 am at Coconut Café, in Honiara, the Complainant, Charles Solomon Habatia and his wife were at Coconut Café, having few drinks, when the Defendant, who was intoxicated with liquor, approached the Complainant and said words to the effect, "iu save tu wat iu duim?"
- 2) The Defendant was moving around in an aggressive manner, raised his hands and challenged the Complainant for a fight in the presence of the Complainant's wife.
- 3) The Defendant moved closer towards the Complainant making challenging body contact with the Complainant and in a ready position to fight.
- 4) The Complainant feared for his safety and that of his wife and thus contacted the police and the Defendant was charged accordingly with one count of Intimidation, contrary to Section 231 (1) of the **Penal Code**.
- 5) The charge is particularised as follows;  
  
That Robert Koi Kuper at Honiara, in the Guadalcanal Province, on the 8<sup>th</sup> day of February 2025, did intimidate Charles Solomon Habatia by aggressively walking to and fro in front of him raising his hands and making challenging body contacts with him in a ready position to fight.
- 6) The criminal proceeding against the Defendant was instituted at the Central Magistrate's Court on the 6<sup>th</sup> day of March 2025.
- 7) On the 9<sup>th</sup> day of April 2025, the Defendant was arraigned on the charge and he admitted the offence by entering a plea of guilty.
- 8) The maximum penalty for this offence is prescribed under the Section that creates this offence. Section 231 (1) states;

Any person who intimidates or molests any other person shall be guilty of an offence and liable to imprisonment for three years.

- 9) It is an accepted principle that the maximum penalty is reserved for the worst type of offending. In the present offending, I am satisfied that it falls within the lower scale of offending.
- 10) The facts do not disclose any motive for the offending but what is clear from the facts is that, the Defendant approached the Complainant and verbally accused him and challenged him for a fight. It can be safely assumed that those actions by the Defendant were unprovoked acts and fuelled by alcohol abuse on the night.
- 11) The plea of guilty that was entered has saved the Court's time in conducting a trial into the charge and is a demonstration of remorse and willingness by the Defendant to face the consequences of his action. This was emphasised in ***R v John Mark Tau and others***<sup>1</sup> when Justice Palmer, as he then was, said;  

*"... a plea of guilty demonstrates very clearly in my view a person who is not only remorseful, and is sorry for all his actions, but is courageous enough to face up to his own actions and the consequences that normally flow from it."*
- 12) The comments above underscore the importance of appreciating a guilty plea when entered by an offender. In the present case, I will give credit for the plea that was entered by the Defendant.
- 13) In terms of the Defendant's antecedent, the Prosecutor did not assist the Court whether the Defendant has a prior conviction or not. The written submission tendered by the Prosecution at the Sentencing hearing was silent on that. However, Counsel for the Defendant submitted in her written submission that her client is a first-time offender. In the absence of any evidence to establish whether the Defendant has a criminal conviction or not, I will treat the Defendant as a first-time offender.
- 14) Having considered the factors as highlighted above, including the circumstances of the offending, I am of the view that a non-custodial sentence is appropriate in the circumstances of this case although the form of penalty prescribed by the section creating the offence is custodial. Section 24 (3) of the Penal Code states;

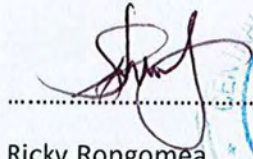
A person liable to imprisonment for an offence may be sentenced to pay a fine in addition to or instead of imprisonment.

- 15) I am of the view that the appropriate sentence that I will impose on the Defendant is a fine of \$800.00. In default, forty days imprisonment. The fine is payable by close of business on 2<sup>nd</sup> of May 2025.

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<sup>1</sup> Unreported Criminal Case No 58 of 1993.

The Court,



Ricky Rongomea

Deputy Chief Magistrate

