



IN THE CENTRAL DISTRICT MAGISTRATE'S COURT – AT HONIARA

Criminal Jurisdiction

Criminal Case No: 197 of 2025

On the 7th day of May 2025

Before: Deputy Chief Magistrate, Ricky Rongomea

Representations: Georgina Oroi for the Prosecution (ODPP)
Sylvia Pitamama for the Defendant

BETWEEN: REX Complainant

AND: JACK BOSAMETE Accused

SENTENCE

- 1) On the morning of the 28th day of February 2025, at around 7 am, Morris Kaoni was sitting on the veranda of his house with his two sons and daughter when Mr. Kaoni's daughter told him that the pages of her school exercise book were torn. Mr. Kaoni and his wife then accused your wife that she was responsible for tearing the pages of the book. You heard this and became angry.
- 2) You took a bush knife, approximately 61 cm in length and went over to Mr. Kaoni's house. In Mr. Kaoni's residential area. You cut a swimming dish worth \$30.00 that belonged to Mr. Kaoni. You then went back to your house.
- 3) You also threatened Mr. Kaoni by telling him to move out of his house and that if he doesn't you would cut and burn down the house.
- 4) Not long after you returned to your house, Kellyson Able and Carlton Pitavoga heard what happened and went Kaoni's house. They arrived at Mr. Kaoni's house and decided to teach you a lesson. Therefore, Mr. Kaoni called out your name and shouted twice saying "you like fight ya?".
- 5) You heard this and charged towards Mr. Kaoni, who picked up stones and shot them in your direction in an attempt to stop you. The stones hit you on the leg and one on your private part and Mr. Kaoni had to run away from there and stood about ten (10) meters away.
- 6) When Mr. Kaoni ran away, you proceeded to attacking Kellyson and Carlton. You charged towards Kellyson, who attempted to pick up a firewood to defend him from your attacks. Kellyson however, was not quick in his action because you had struck the knife and it had cut him on his left arm. You cut Kellyson twice. The knife cut Kellyson on his left shoulder and left arm. On the lateral region of his left arm, there is a deep lacerating wound measuring at approximately 5cm x 6mm. This cut is deep and cuts through 1 cortex of the midshaft bone. There is fracture to the midshaft of the humerus bone.

- 7) The surrounding soft tissues and muscles – the vascular components are also injured. On his left shoulder, there is a superficial wound measuring at approximately 3cm x 2cm.
- 8) The complainant, Kellyson Able was given an arm sling to support the recovery process, including a wound closure and betadine dressing applied to the wound. He was prescribed antibiotics for pain relief.
- 9) During that time, you also chased Carlton, also attempting to cut him with the knife.
- 10) The matter was reported to Police, and you surrendered yourself to the police. You were interviewed under caution and made an admission to the allegation (sic).
- 11) Your uncle, Robert, had already reconciled with Kellyson while you were in remand. Your uncle gave \$1,400.00 to the complainant, Kellyson as compensation.
- 12) Those are the facts agreed by you through your Lawyer and the Prosecution.
- 13) On 11th March 2025, a Charge Sheet, containing four counts were filed with the Court against you. Count 1 is *Act intended to Cause Grievous Harm*, contrary to section 224 of the Penal Code, counts 2 and 3 were the offences of *Intimidation*, contrary to section 231 (1) of the Penal Code and Count 4 is *Malicious injuries*, contrary to section 326 (1) of the Penal Code.
- 14) On the 28th day of April 2025, the Prosecution made an application under section 201 of the Criminal Procedure Code to amend the initial charge sheet by substituting Count 1 which contain the offence of Act intended to Cause Grievous Harm, contrary to section 224 of the Penal Code with the offence of Grievous harm, contrary to section 226 of the Penal Code instead. Leave was granted by the Court. Counts 2, 3 and 4 remain unaffected and were included in the Charge Sheet filed on 28th April 2025. The Prosecution then sought to withdraw Count 1 on the original Charge Sheet under section 190(2)(b)(i) of the Criminal Procedure Code to which the Court consented and therefore, the charge of Act intended to Cause Grievous harm as reflected in Count1 of the original charge sheet is withdrawn and you were acquitted of the offence of act intended to cause grievous harm.
- 15) You were then arraigned on the amended charge sheet containing Count 1, Grievous harm, contrary to section 226 of the Penal Code, count 2 and 3, *Intimidation*, contrary to section 231 (1) of the Penal Code and Count 4 is *Malicious injuries*, contrary to section 326 (1) of the Penal Code. You admitted the offences and entered pleas of guilty to all the counts.
- 16) Today is for the Court to sentence you as authorized by Section 24 of the Penal Code.
- 17) For these offences, the prescribed maximum penalties are as follows;

18) Count No.	19) Offence	20) Maximum penalty
21) 1	22) Grievous harm, contrary to section 226 of Penal Code	23) 14 years imprisonment

24) 2	25) Intimidation, contrary to section 231(1) of Penal Code	26) 3 years imprisonment
27) 3	28) Intimidation, contrary to section 231(1) of Penal Code	29) 3 years imprisonment
30) 4	31) Malicious injuries, contrary to section 326(1) of Penal Code	32) 4 years imprisonment

33) Sentencing you in this case will involve the Court's exercise of its discretion, having to balance a number of factors. The process of balancing these factors have been explained by the courts in a number of cases. One of those is the case of *Bara v Reginam* [2018] SBCA 10; SICOA-CRAC 36 of 2017 (11 May 2018). A case also cited by the Prosecutor in her written submission. The Court of Appeal outlined the process:

"15. With appropriate guidance, where available, a sentencing judge should identify a starting point. From the starting point there will be adjustment to take into proper account factors which make the offending more serious (aggravating features) or may serve to suggest that the sentence is too harsh, often more related to the offender than the offence (mitigating features). This requires the judge to set out what he regards as aggravating and mitigating when he intends to take them into account in the final sentence or reasons why he intends not to take them into account.

*16. After identification of the aggravating and mitigating features and how they affect the starting point reference should be made to the effect, if applicable, of an early guilty plea. Where a discount is to be given that should be indicated. Where no discount is to be given a reason for that decision should also appear in remarks made on sentencing. Equally where no allowance is to be made for pre-sentence periods of custody served relating to the offending before the court reasons should be given. See *Tii v R* 2016 SBCA 14.*

17. Finally, the totality of the sentence should be examined, to ensure that the end result properly reflect the criminality involved in the offending."

34) The second case is *Tii v. Regina* [2017] SBCA 6, where the Court of Appeal set out the approach that should be taken by courts in sentencing. The Court said;

"In an approach to sentence, a sentence should be crafted to attain the goals of punishment, deterrence and rehabilitation. The starting point should be consideration of the facts of the offence and of the appropriate range of penalty for the offence constituted by those facts. Then any aggravating circumstances should be identified. The sentencing judge's attention should then turn to facts relating to the offender – his antecedents (including personal circumstances and criminal history, if any) and mitigating factors such as youth, remorse or plea of guilty (including the circumstances in which the plea was entered)".

35) In view of the circumstances of the offending by the Accused in the present case, in particular, his criminality, I am of the view that the appropriate starting points for each of the offences charged, are as follows;

36) Count No.	37) Offence	38) Starting point
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39) 1	40) Grievous harm	41) 3 years
42) 2	43) Intimidation	44) 12 months
45) 3	46) Intimidation	47) 12 months
48) 4	49) Malicious damage	50) 10 months

51) In *Regina v Tebala* [2017] SBCA 7; SICOA-CRAC 18 of 2016 (5 May 2017), the Court of Appeal has issued guidance when identifying aggravating factors.

"Having determined the appropriate starting point for the offence itself, the sentencing court must be careful not to use the same elements of the offence by which the starting point was fixed again when identifying aggravating features. In general terms the starting point is assessed on the seriousness of such additional features of the offence itself in the particular case. The aggravating features will be based on the manner in which the accused actually applied them in the case being sentenced. Taking a knife with you when committing a robbery, for example, will make the robbery more serious and deserving of a higher starting point but the fact the accused actually uses it and how he uses it will be features which may aggravate the sentence beyond that starting point."

52) The offences are aggravated by a number of factors.

53) The use of a weapon has aggravated your offending. The facts show that when you heard Mr. Kaoni and wife made the accusation against your wife, you were angry. You then armed yourself with the bush knife and went over to Kaoni's house. In this circumstance, the moment you picked up the knife, you had put the safety of others in your community at risk. The fact that you armed yourself with the knife is clearly indicative of a complete disregard for the safety of others and property. You use the knife to inflict the injuries on Kellyson Able and I can also safely assume that the sight of the knife must have also been traumatising to not only the Complainants, but also to others who were present. I note that amongst those present the offences were Kaoni's children. Your violent and aggressive behaviour at the material time must have been equally traumatic to the children. So, the commission of the offences in the presence of children also makes your offending serious.

54) The complainant, Kellyson Able suffered pain and inconvenience due to your use of the knife to inflict the injuries on him.

55) In the intimidation offences you were in possession of the knife when you committed the offences against Mr. Kaoni and Carlton. You first threatened to cut and burn Mr. Kaoni's house and then, for the second time, after you were challenged, with the knife still in your hand, you chased Mr. Kaoni. You then turned and also chased Carlton with the knife. The use of the knife in these circumstances (intimidations), aggravate the offences of intimidation.

56) Although the property damaged costed \$30.00, that is a loss to the Complainant, Mr. Kaoni.

57) I accept that this was a spontaneous reaction to the accusation levelled against your wife but it was a reaction that was way too far because of uncontrolled anger. There are peaceful ways of solving disagreements. In this matter, you allowed anger to take control of you and acted

in the manner described in the facts and particulars of the charges. It is my hope that you will learn from any sentence that will be imposed against you and rehabilitate yourself in a meaningful way so that in the future, you would be able to exercise restraint and self-control even in situations that might be provocative and anger stirring.

- 58) In terms of your personal circumstances, you are 39 years old at the time of the commission of the offences. You are the eldest in a family of five and your parents are now in their 60s and 70s. Your education only went as far as grade 3. You are married with three children, ages 9, 8 and 2 years. You have supported your family by selling crops at the markets and volunteering in a Copra project funded by ADRA.
- 59) The sentence that the Court will impose in this case will not only reflect the facts, aggravating factors, the mitigating features and your personal circumstances but must also account for the principles of deterrence and punishment.
- 60) I have considered the comparative cases cited by both the Prosecution and the Defence; they are useful guidelines that suggest the range of sentences imposed by the courts in the past for these types of offences. I am also mindful of the well-established principle that no two cases are the same and so each case must be decided on its own unique set of facts.
- 61) I note that you are a first-time offender. You have no previous criminal conviction.
- 62) To reflect the aggravating factors identified for the offences, I will add 6 months to each of the counts (1, 2, 3 & 4). So; for the charge of Grievous harm 3 ½ years, for each of the Intimidation charges 18 months and the Malicious damage offence, 16 months.
- 63) I will deduct 6 months from each of the counts (charges) to allow for your personal circumstances and mitigating factors. The sentences should now be 3 years imprisonment for the grievous harm charge, 12 months imprisonment for each of the Intimidation charges and ten (10) months imprisonment for the Malicious damage charge.
- 64) You have pleaded guilty to the offences at the first available opportunity so credit must be accorded for that. Not only that, but the pleas entered have saved the Court's time and resources in enquiring into the charges by way of trial. I accept that the pleas are clear indications of remorse and willingness on your part to accept the consequences of your actions. To properly account for the pleas and the circumstance in which they are entered, I will further deduct 1 year from the Grievous harm offence. Since, the offences arose out of the same incident, I think the pleas of guilty are now sufficiently accounted for in the most serious offence in this case. I do not think that I should further allow for the pleas in the intimidation charges and the malicious damage offence. The effective sentences are;
- a. Grievous harm (Count 1) = 2 years imprisonment,
 - b. Intimidations (Counts 2 & 3) = 12 months imprisonment each,
 - c. Malicious damage (Count 4) = 10 months imprisonment.
- 65) The offences arose from the same incident and it can be safely assumed that they were committed in close proximity, in terms of time, to each other, so I will order that they be served concurrently. The total effective imprisonment term that you will serve in prison is 2

years. I am of the view that this sentence has sufficiently reflect the criminality involved in this case and the principle of deterrence, rehabilitation and punishment.

66) Time already spent in custody on remand prior to sentencing will be deducted from the sentence. I will leave that calculation to the Correctional Department at Rove.

67) The sentence is effective as of today.



Deputy Chief Magistrate.