

**IN THE CENTRAL DISTRICT MAGISTRATE'S COURT
OF SOLOMON ISLANDS**



Criminal Jurisdiction

Criminal Case No: 377 of 2025

On the 3rd day of June 2025

Before Deputy Chief Magistrate, Ricky Rongomea

Appearances:

Paul Junior Fanasia for Prosecutions (ODPP)

Thompson Fiuga for the Accused

BETWEEN: REX Complainant

AND: DONLEY NEWTON Accused

SENTENCE

The purpose of this proceeding this morning is for the Court to pass sentence on you for the two offences you had committed. You are charged with one count of Burglary, contrary to section 299 (b) (ii) of the **Penal Code** and one count of Escape from lawful custody, contrary to section 125 of the **Penal Code**. You admitted these offences on 16th May 2025 during the plea hearing by entering pleas of guilty to them.

Somewhere between 6 pm and 12 am (midnight) on the night of 23rd March 2025, you gained your entry into the house of the Complainant through the window located at the back of the Complainant's house, at Lulunga village, East Guadalcanal. You used a timber, a 2x6 in size, which you put on the back window to enter the house.

That night, the Complainant and his family were away, visiting a family member and paid respect to a relative of his who passed on that night. A person by the name of Gilson Billy saw the timber and suspiciously believed that someone must have used that 2x6 timber to gain access into the house. He then removed the timber. After Mr. Billy removed the timber, you then jumped out from the window and hurt yourself before escaping. Mr. Billy knew exactly that it was you and called out your name but you continued to run away from Mr. Billy.

The items removed by you are as follows:

Item	Value
Pathfinder registration fee	\$190.00
Church offering	\$160.00
Tenth	\$40.00
Wife's money	\$100.00
Curry flakes (2 tins)	\$28.00
Packet Noodles (6 packets)	\$30.00

Traditional shell money (Konga)	\$600.00
---------------------------------	----------

The estimated total cost of the stolen properties is \$1,148.00.

Your father, who is also a relative of the Complainant paid a total of \$1,300.00 to the Complainant.

After you were arrested for the offences, you then escaped from Tetera Police Station whilst you were under the custody of Police officer, Mrs. Eremina. You were later arrested on the same night with the help of other off-duty officers within the premises of Tetera Police Station. You are now in custody after being remanded on 8th April 2025.

The offence of burglary carries a maximum penalty of life imprisonment. In 1977, Chief Justice, Davis CJ, made an order Pursuant to powers conferred by the **Magistrate's Court Act [Cap 20]**, conferring on the Magistrate's Court increased criminal jurisdiction in relation to some offences. One of which is Burglary. It is called '*The Magistrate's Court (Increase In Criminal Jurisdiction) Order 1977*'.

The offence of Escape from lawful custody is a misdemeanour offence. No particular maximum penalty is prescribed under section 299 of the **Penal Code** which creates the offence of escape from lawful custody however, Section 41 of the **Penal Code** provides for general punishment for misdemeanors. It states;

"When in this Code no punishment is specially provided for any misdemeanour, it shall be punishable with imprisonment for a term not exceeding two years or with a fine or both".

In *Bade v Reginam* [1988] SBHC 10; [1988-1989] SILR 121 (21 December 1988), Ward CJ, as he then was, said;

"For a normal burglary case, the only appropriate penalty must be an immediate custodial sentence."

Ward CJ also said in *Bade v Reginam* (Supra);

"Where the burglary is not aggravated in any way, the starting point for an adult first offender should be two years imprisonment. From that point, this court should consider any aggravating factors such as committing the offence with the support of others, theft of personal items that can be little or no value to the thief, general ransacking of the house, wanton damage, pre-planning and the degree of breaking necessary to gain entry. If such matters are present, they should add to the penalty. Where masks are used, weapons are carried, threats are made or similar escalations in the seriousness of the offence are present, the penalty should be further increased and it would rarely be appropriate to pass a sentence of less than four years."

In view of the guideline as settled in the Bade case by Ward CJ as he then was, I will fix the starting point in the present case at 2 years imprisonment.

One of the factors that aggravates the offence of burglary in the present case is the items stolen, the total value of which is \$1, 148.00.

I understand from the facts that your father had paid a total of \$1,300.00 to the Complainant after the incident. It is safe to assume that amount was paid to compensate the complainant for his loss and to ensure that they live peacefully, as relatives, with each other. There is no mention in the facts whether the properties stolen by you were ever recovered.

The circumstances of your offending clearly show you had pre-planned the burglary. Your action is indicative of someone who had no respect for the home of the complainant and his, and other's properties kept in the home at that time. Some of the properties, in the form of money, were Church monies. Whether you knew this or not, is not clear. Had evidence there to suggest that you knew, that would aggravate your offending but that is not the case here.

I will add two (2) months to reflect the aggravating factors.

The Prosecution asked the Court to consider, as an aggravating factor that you had caused damage to the window. I refuse to accept that as an aggravating factor simply because it is not included in the facts agreed.

For the offence of escaping lawful custody, I will impose a starting point of six months imprisonment. Your escape from Police was a clear demonstration of someone who was not willing to co-operate with the Police. The act of escaping is also indicative of your intention to avoid facing the consequences of the primary allegation you were arrested for. I will add 1 month to reflect that.

The sentences will run consecutive to each other, totalling up to 33 months imprisonment.

I will now consider matters in mitigation and your personal circumstances.

You have no previous conviction.

You are 21 years old and married with one child who is 5 months old. Your education has reached only Form 3 and you are self-employed as a farmer. Imprisonment will definitely have an impact on your family. Regrettably, that is a consequence you should have considered and taken steps to prevent by halting your plan to burgle the home of the Complainant.

I note your plea of guilty to the charges which indicate remorse. It saves the Court's time and resources in conducting a trial on those charges. I will give you credit for that.

I will deduct 21 months to reflect the plea of guilty, personal circumstances and mitigating factors. I considered the money paid as compensating the loss, to put the complainant in the position he was in before the crime was committed.

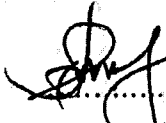
I must not lose sight of the purpose of sentencing. The principle of deterrence – both specific and general is in my view the most important consideration when deciding the sentences to be imposed in your case. You must be deterred from engaging in such criminal conduct in the future. This Court will continue to fulfil its obligation in sentencing and to send the message clear to you and others that this kind of unlawful conduct in society cannot be tolerated by the Courts.

Sentence orders

The appropriate sentence in my view is 12 months imprisonment and is backdated to commence on when you were first remanded in custody at Rove. That was on 8th April 2025.

The sentence, in my view, sufficiently reflect the principles of punishment and deterrence, and fits the criminality involved in this case.

The Court,


Ricky Rongome
Deputy Chief Magistrate
