

Conviction/acquittal

6. Having paid due consideration to the facts agreed to by parties and having entered a guilty plea on your part, I now enter conviction against you.

Maximum penalty

7. Section 245 of the Penal Code states:
Any person who commits an assault occasioning actual bodily harm is guilty of a misdemeanour, and shall be liable to imprisonment for five years.
8. A maximum penalty imposed by law for any type of offending demonstrates the level of seriousness associated to such category of offending. It is a warning to the public as to the type of punishment one will face if he or she is found in breach of the law.

Matters of Mitigation

9. In terms of the mitigating factors involved in this case, I note the following:
 - i. That a guilty plea has been entered at your earliest given opportunity. On this note, I wish to say that this is a case from the year 2023. The matter could have already been disposed had you appeared in court, instead your warrant of arrest was reviewed all throughout the year 2023, 2024 until the 9th of May 2025 when you were remanded.
 - ii. No previous convictions;
 - iii. Time spent in custody;
 - iv. I am also asked to consider that there is a likelihood of change on your part.

Matter of aggravation

10. Prosecutions identified the following as aggravating in nature:
 - i. The seriousness of the offence as reflected through its maximum penalty;
 - ii. That you were under the influence of alcohol when the offence was committed;
 - iii. Your actions were unprovoked;
 - iv. The use of a weapon.

Comparative sentencing

11. Parties have cited cases during the sentencing submissions; however, it is always best that cases be dealt with based on their own set of facts and circumstances.

Sentencing remarks

12. The circumstances leading to this offending involves you being intoxicated and grabbing the victim's bag from behind. You accelerated your actions into whipping the victim with a timber when he turned back upon his own instincts.
13. I was told that you never intended to steal the victim's bag and to whip him with the timber, as you were just dared to pull his bag. First and foremost, many residents of Honiara have been victimised to pick pocketing, stealing, burglary and even robbery. People have long

accustomed themselves into being alert when in crowded areas and even within the comforts of their homes.

14. It is quite unconvincing that you would agree to a dare, knowing very well the prevalence of such criminal acts.
15. I do not believe your account of what had happened, as your actions on the day in question borders towards your intention to steal the victim's bag and the use of a timber when you action was discovered.
16. This morning, I must remind you that there will never be any benefit if you continue to surround yourself with peers that lead you into wrong doing. From your physical appearance this morning, you are a fit and abled person capable of making the right decisions. The fact that you are sitting there today squares down on your poor and dishonest decision making.
17. Your actions are unprovoked and unwarranted. People with mindsets such as yours need to be reminded that actions fuelled through such mindsets can only bring shame and disrepute to yourselves and the families you represent.
18. In terms of the sentencing principles, I am of the view that your sentence must be deterrent in nature, both specific and general. Furthermore, it must be seen to rehabilitate you. Moreover, it must also be seen to address the principle of retribution as well as the need to prevent this kind of offending.
19. Before concluding, I wish to highlight that a warrant of arrest was issued against you on the 6th of February 2023. Since then, your case has been on review until you were remanded in late may 2025. Such actions can only prove that you do not intend to own up to your wrong doing. You must be warned that the criminal system should and must be taken seriously. I note the type and length of sentences served in similar cases such as this, but it is worth noting that the circumstances giving rise to each offence are not the same.
20. This this case, you tried to snatch the victim's bag, and further whipped him with a timber when he turned to see what you were doing. While you say that you were dared, it would have made sense if you actually fled the scene when your evil intentions were discovered, instead, you used a timber to assault the victim. Such actions tell me something far more than a dare.
21. This morning, I am reminded through this case about the need for cases to be dealt with based on their own set of facts and circumstances. I have read the cases referred to by parties and find that this is a case that cannot be compared to the circumstances of the cases cited. I say this on the basis that this offending stem from your intention to deprive the victim of his personal belongings.
22. With the maximum penalty being 5 years imprisonment, I am of the view, that with the present circumstances, I must consider a range between 12 months to 24 months imprisonment. I pitch my starting point at 18 months imprisonment. I add 8 months to reflect the 4 aggravating factors involved, and further deduct 6 months to reflect the early guilty plea (1/3 of starting point), and further deduct 8 more months for the remaining mitigating factors. Note that the time spent in custody is already calculated as part of the mitigating factors.
23. Hence, it is with this that I now sentence you as follows:

ORDERS

- (i) **Mr Flex Asuana, for the offence of Assault Causing Actual Bodily harm, contrary to section 245 of the Penal Code, I hereby sentence you to 12 months imprisonment;**
- (ii) **Right of appeal applies within 14 days from today.**

Dated this 17th day of June 2025.



THE COURT

Emily Zazariko Vagibule Pakoa (Mrs)

Principal Magistrate