

**REGINA-v-HENRY LENGAINA****HIGH COURT OF SOLOMON ISLANDS  
(Mwanosalua, J.)**

*Criminal Case No: 425 of 2005*

**Hearing:** 23 November 2006

**Judgment:** 1 December 2006

*R. Talasasa, D.P.P., for the Crown*

*A. Faasau for the Accused*

**JUDGMENT**

**Mwanosalua, J:** Henry Lengaina is the Accused in this case. The Deceased was Selestino Pereseni. They were blood brothers and lived at Kolona Village on Guadalcanal Island. The Accused caused the death of the Deceased in their village on 18 February 2005. On 20 February 2005, he was charged with the murder of the Deceased. But that murder charge was withdrawn and substituted with a manslaughter charge on 29 September 2006. On the same day, he was discharged and acquitted of the murder charge. On 23 November 2006, he was arraigned and he entered a guilty plea to manslaughter. He was convicted upon his own guilty plea to manslaughter accordingly.

The Accused and the Deceased left their village and went to Honiara on 18 February 2005. They traveled to Honiara on a truck owned by the Deceased with other people who went to the Central Market in Honiara. They arrived in Honiara at about 12 O'clock midday.

They left Honiara in the same truck with passengers to their village at about 5pm. When they arrived at their village, the Deceased left the truck. He told the Accused and the driver of the truck George Tangidodo to go on to the surrounding villages as far as Rabevati village to drop off the passengers and collect people and market produce to be transported to Honiara during that night.

When the Accused and driver returned to Kolona village, the driver parked the truck at the side of the road. The Accused shouted to him to move the truck into the village. The truck could not start and the Deceased accused the driver of spoiling the truck and swore at him.

The Deceased advanced to the Accused and had an argument with him. During that time the Accused held a half-full bottle of solbrew beer in his hand. He left the Deceased and walked towards the Deceased's house. When he came to the

Deceased's house he threw the bottle into the house smashing the Deceased's kerosene lamp. The Accused then walked on to his house and took his bush knife. He held the bush knife and went back to the Deceased. They continued their argument but the Accused cooled down when Patrick Ngelea, their other brother, spoke to him.

But the Deceased jumped at the Accused from behind Patrick Ngelea who stood between them. The Accused and the Deceased fell to the ground. Patrick Ngelea went towards to them and held the hands of the Accused to prevent him from cutting the Deceased with the knife. Patrick Ngelea called for help and another person called Selestino Pereseni came and removed the knife from the hand of the Accused.

The fight between the Accused and the Deceased happened during the night. The Deceased sustained injuries on his body during the fight. He was rushed to Honiara for medical treatment by vehicle; but he died on the way before he arrived at the Hospital.

Malcolm John Dodd is a Forensic Pathologist. He performed an autopsy on the body of the Deceased at the National Referral Hospital in Honiara on 21 February 2005. An autopsy report was subsequently produced to the Police which was exhibited to this Court by the Crown.

This report shows that the Deceased had incised wounds on his body. First, there was a superficial incised wound at the right back surface of the neck. The opinion of the Pathologist is that this may indicate an act of menacing with an edged weapon; second, there were wounds on palm surfaces on the right hand and the third, fourth and the fifth fingers. Third, there were wounds on the palm surface of the first and second fingers of the left hand. The Pathologist considered that the wounds on the palms of the right and left hands were defence wounds. Fourth, there was a vertical incised wound at the lower side of the left leg. This wound was 165mm in length and was 30mm in depth at its most inner part. This weapon causing this wound completely severed the peroneal artery. The Pathologist held the view that because of the way in which the wound was inflicted, it was not sustained by the Deceased accidentally falling onto the blade of the weapon which inflicted it.

The wounds on the hands and the leg of the Deceased were incised wounds. Such wounds are made by sharp cutting weapon like broken glass, knife and so on. In this case, there is evidence that the accused was armed with a bush knife immediately before the Deceased sustained the wounds. The wounds came from the knife held by the Accused. The immediate cause of the death of the Deceased is one of acute blood loss from the incised wound on his left lower leg inflicted on him by the Accused. The Accused unlawfully caused the death of the Deceased on 18 February 2005.

**SENTENCE**

**Mwanesalua, J:** You **Henry Lengaina** pleaded guilty to Manslaughter, contrary to Section 199(1) of the Penal Code [Cap.26]. Manslaughter is a serious offence. It carries a maximum penalty of life imprisonment. It is now my duty to sentence you. You inflicted wounds to the body of the Deceased with your bush knife. A bush knife is a lethal weapon. The Deceased was your own brother. The knife which you used to cut his left lower leg severed his peroneal artery which led to acute blood loss resulting in cardiac failure and his death.

I take these mitigating factors in your favour. You are of previous good character with no previous conviction. You pleaded guilty. There was reconciliation between the brothers, sisters, mother, relatives and in-laws of your late brother and yourself. During that reconciliation ceremony in 2005, there was exchange of cooked and uncooked food, live pigs, red money and cash. There was delay in bring your case to court as you were first charged with murder on 20 February 2005. There was a delay of more than 21 months. And that you may have been provoked by the Deceased.

I bear in mind that your children and wife would continue to face hardship by your conviction. However, I feel that you ought to have regard to such hardship before you committed the offence of which you are about to be sentenced.

You used a bush knife to cut the left lower leg of the deceased which severed his peroneal artery from which he bled to death. As I mentioned earlier, a bush knife is a lethal weapon, the use of such a weapon is an aggravating factor in your offence. You went to collect that weapon immediately you and the Deceased commenced your argument. Your intention was to use it against the Deceased. You told the Police in your statement that you did not know how your weapon caused injuries to the Deceased. The Pathologist however clearly demonstrated that you were the aggressor and that Deceased was defending himself. I consider that the appropriate sentence for your offence is four years imprisonment, commencing from the first day you went into custody. I order accordingly.

**Francis Mwanesalua**  
**Puisne Judge**