



SUPREME & NATIONAL COURTS OF JUSTICE
Court Reporting Service

CASE AUTHORITIES ON CRIMINAL CASES
FOR
COURT REPORTING OFFICERS

THE LAW AND CASE CITATIONS/REFERENCES

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Arson

436. ARSON

A person who wilfully and unlawfully sets fire to—

- (a) a building or structure, whether completed or not; or
 - (b) a vessel, whether completed or not; or
 - (c) a stack of cultivated vegetable produce; or
 - (d) a stack of mineral or vegetable fuel; or
 - (e) a mine, or the workings, fittings or appliances of a mine; or
 - (f) an aircraft or motor vehicle,
- is guilty of a crime.

Penalty: Subject to Section 19, imprisonment for life.

437. ATTEMPTS TO COMMIT ARSON

A person who—

- (a) attempts unlawfully to set fire to anything referred to in Section 436; or
- (b) wilfully and unlawfully sets fire to anything that is so situated that any thing referred to in Section 436 is likely to catch fire from it, is guilty of a crime.

Penalty: Imprisonment for a term not exceeding 14 years.

438. SETTING FIRE TO CROPS AND GROWING PLANTS

A person who wilfully and unlawfully sets fire to —

- (a) a crop of cultivated vegetable produce, whether standing or cut; or
- (b) a crop of hay or grass, whether —
 - (i) the natural or indigenous product of the soil or not; or
 - (ii) under cultivation or not; or
 - (iii) standing or cut; or
- (c) any standing trees, saplings or shrubs, whether indigenous or cultivated; or
- (d) any heath, gorse, furze, or fern,

is guilty of a crime.

Penalty: Imprisonment for a term not exceeding 14 years.

439. ATTEMPTING TO SET FIRE TO CROPS, ETC

A person who attempts unlawfully to set fire to anything referred to in Section 438 is guilty of a crime.

Penalty: Imprisonment for a term not exceeding seven years.

Case authorities

State v Baundo, Mondo [2007] PGNC 202 N5045 Cannings J

State v Kamotau, Tony [2016] PGNC 214 N6412 Toliken J

State v Oscar Rebon, Alken Rebon and Nautim Benal [2007] PGNC 187 N4996
Cannings J

State v Prodie Akoi & Steven Akoi [2004] PGNC 180 N2584 Kandakasi J

State v Samson Leila [2012] PGNC 226 N4770 David J

State v Suimeleng Luap Suimeleng, Suilogo Passingan & Marang Tienpules (No.2)
[2015] PGNC 157 N6055 Lenalia J

State v Yomb, Ipu Samuel [1992] PGNC 122 [1992] PNGLR 261 N1102 Doherty J

Grievous Bodily Harm

“**Grievous bodily harm**” means any bodily injury of such a nature as to endanger or be likely to endanger life, or to cause or be likely to cause permanent injury to health;

315. ACTS INTENDED TO CAUSE GRIEVOUS BODILY HARM OR PREVENT APPREHENSION

A person who, with intent–

- (a) to maim, disfigure, or disable any person; or
- (b) to do some grievous bodily harm to any person; or
- (c) to resist or prevent the lawful arrest or detention of any person, does any of the following things is guilty of a crime:–
- (d) unlawfully wounding or doing a grievous bodily harm to a person;
- (e) unlawfully attempting to strike a person with a projectile;
- (f) unlawfully causing an explosive substance to explode;
- (g) sending or delivering an explosive substance or other dangerous or noxious thing to a person;
- (h) causing any substance or thing referred to in Paragraph (g) to be taken or received by a person;
- (i) puts a corrosive fluid or destructive or explosive substance in any place;
- (j) unlawfully casts or throws a fluid or substance referred to in Paragraph (i) at or on a person, or otherwise applies any such fluid or substance to the person of a person.

Penalty: Subject to Section 19, imprisonment for life.

319. GRIEVOUS BODILY HARM

A person who unlawfully does grievous bodily harm to another person is guilty of a crime.

Penalty: Imprisonment for a term not exceeding seven years.

Case Authorities

State v Jimmy, Steven [2018] PGNC 161 N7246 Kangwia J
State v Kuvir, Eremas [2015] PGNC 131 N6035 Kangwia J
State v Lopulopu, Augustine [2016] PGNC 198 N6393 Kangwia J
State v Moni [2006] PGNC 230 N4519 Cannings J
State v Saun [2011] PGNC 110 N4390
State v Tagi, Simon [2017] PGNC 346 N7027 Miviri AJ
State v Tupulit, Lapan [2015] PGNC 272 N6185 Kangwia J

Infanticide

298. UNLAWFUL HOMICIDE

A person who unlawfully kills another is guilty of the crime of wilful murder, murder, **infanticide** or manslaughter, according to the circumstances of the case.

301. INFANTICIDE

(1) Where—

(a) by a wilful act or omission a woman causes the death of her child under the age of 12 months; and

(b) at the time of the act or omission the balance of her mind was disturbed by reason of—
(i) her not having fully recovered from the effect of giving birth to the child; or
(ii) the effect of lactation consequent on the birth of the child, she is guilty of infanticide, and may be dealt with and punished as if she had been guilty of the manslaughter of the child.

(2) On an indictment for the offence of infanticide, the accused may be convicted of an offence under Section 313.

(3) On an indictment for wilful murder, murder or manslaughter, a woman may be convicted of infanticide.

540. HOMICIDE OF CHILD, ALTERNATIVE VERDICTS

On an indictment charging the wilful murder, murder or manslaughter of any person, if on the evidence it appears that the person alleged to have been killed was a child of which a woman had recently been delivered, the accused person may be convicted of—

(a) the offence of **infanticide**; or

(b) the offence of preventing the child from being born alive by an act or omission of such a nature that, if the child had been born alive and had then died, he would be deemed to have unlawfully killed the child; or

(c) the offence of endeavouring by a secret disposition of the dead body of the child to conceal the birth.

Case authorities

Armanasco v R [1951] WALawRp 7 (1951) 52 WALR 78
Regina v Bema Koropak [1960] PGSC 1 Mann CJ
State v Joseph, Fambin Diofilia [1992] PGNC 90 [1992] PNGLR 238 N1067 Jalina J
State v Lamete, Charlice [2007] PGNC N4495 Cannings J
Stapleton v Regina [1952] HCA 56 (1952) 86 C.L.R 358
Wamela v The State [1982] PGSC 24 [1982] PNGLR 269 Kidu CJ, Andrew Pratt JJ
Yihwai and Aku, Regina v [1963] PNGLR 40 – Regina v Yihwai (or Yigwai) and Aku
Mann CJ

Wilful Murder

300. WILFUL MURDER

(1) Subject to the succeeding provisions of this Code, a person who unlawfully kills another person, intending to cause his death or that of some other person, is guilty of wilful murder.

(2) ^{[101] [102]} A person who commits wilful murder shall be liable to be sentenced to death.

Case authorities

Anna Max Maringi v The State (2002) [SC702](#)
State v Arua Maraga Hariki (2003) [N2332](#)
Avia Aihi v The State (No.3) [\[1982\] PNGLR 92](#)
State v Ben Simakot Simbu (No.2) (2004) [N2546](#)
Charles Ombusu v The State [\[1996\] PNGLR 335](#)
The State v Charles Ombusu (Unnumbered & Unreported Judgment of 17th February 1995)
Goli Golu v The State [\[1979\] PNGLR 653](#)
Manu Kovi v The State (2005) [SC789](#)
Ure Hane v The State [\[1984\] PNGLR 105](#)
Theo Yasause [2012] PGNC 248; N4871 (28 September 2012)

Murder

301. MURDER

(1) ^[103] ^[104] Subject to the succeeding provisions of this Code, a person who kills another person under any of the following circumstances is guilty of murder:–

(a) if the offender intended to do grievous bodily harm to the person killed or to some other person;

Manslaughter

302. MANSLAUGHTER

A person who unlawfully kills another under such circumstances as not to constitute wilful murder, murder or infanticide is guilty of manslaughter.

Penalty: Subject to Section 19, imprisonment for life.

Case authorities

State v David Yakuye Daniel (No 2) [2005] PGNC 58 N2890 Cannings J

Joseph Enn v State [2004] PGSC 36 SC738

State v Gari Bonu Garitau and Rosanna Bonu [1996] PNGLR 48 Passingan AJ

State v John Kanua Siune & Kenneth Kunda Siune [2006] PGNC 112 N5014 Cannings J

State v John Laiam [2010] PGNC 61 N3995

State v Tom Keroi Gurua & 2 Ors [2002] PGNC 41 N2312

State v Vincent Simbago [2005] PGNC 3 N2954

Robbery

386. THE OFFENCE OF ROBBERY

- (1) A person who commits robbery is guilty of a crime. Penalty: Subject to subsection (2), imprisonment for a term not exceeding 14 years.
- (2) If a person charged with an offence against subsection (1) –
 - a) is armed with a dangerous or offensive weapon or instrument; or
 - b) is in company with one or more other persons; or
 - c) at, immediately before or immediately after, the time of the robbery, wounds or uses any other personal violence to any person,he is liable subject to section 19, to imprisonment for life.

Case authorities

State v Jamie Campbell Fereka [2003] PGNC 137 N2359 (7 April 2003)

State v John Bomai [2004] PGNC 1213 N2643 (23 August 2004)

State v Max Charles, Tony Steven & Daudi Charles [2001] PGNC 29 N2187 (17 October 2001)

State v Micky John Lausi [2001] PGNC 124 N2073 (27 March 2001)

State v Patrick Puppy Kaikara Loavi [2006] PGNC 104 N3384 (24 October 2006)

State v Raymond Andrew [2008] PGNC 318 N3955 (22 February 2008)

State v Thomas Gitai Bawai [2001] PGNC 123 N2074 (26 March 2001)

Sexual Penetration

Criminal Code (Amendment) Act 2013

2. NEW SECTION 347C

The Principal Act is amended by adding immediately after Section 347B the following new section:

SECTION 347C. AGGRAVATED RAPE

Any person who sexually penetrates the vagina or anus or such other body part of another person with any body part, object or implement, without consent –

- (a) whilst armed with a dangerous weapon or offensive weapon or instrument; or
- (b) in company with one or more other persons; or
- (c) causes grievous bodily harm to a person, before, after, or in the course of the offence; or
- (d) of the victim a child under the age of 10 years,

is guilty of the crime of aggravated rape and shall be sentenced to death."

6. SEXUAL PENETRATION (definition)

When the expression "sexual penetration" or "sexually penetrates" are used in the definition of an offence, so far as regards that element of it, is complete where there is –

- (a) The introduction, to any extent, by a person of his penis into the vagina, anus or mouth of another person; or
- (b) The introduction, to any extent, by a person of an object or a part of his or her body (other than the penis) into the vagina or anus of another person, other than in the course of a procedure carried out in good faith for medical or hygienic purposes.

223. INCEST

⁷⁰(1) A person who engages in an act of sexual penetration with a close blood relative is guilty of a crime.

Penalty: Imprisonment for a term not exceeding seven years.

(2) For the purposes of this section, a close blood relative means a parent, son, daughter, sibling (including a half-brother or half-sister), grandparent, grandchild, aunt, uncle, niece, nephew or first cousin, being such a family member from birth and not from marriage or adoption.

(3) No person shall be found guilty of an offence under this section if, at the time the act of sexual penetration occurred, he was under restraint, duress or fear of the other person engaged in the act.

229A. SEXUAL PENETRATION OF A CHILD

⁷⁴(1) A person who engages in an act of sexual penetration with a child under the age of 16 years is guilty of a crime.

Penalty: Subject to Subsection (2) and (3), imprisonment for a term not exceeding 25 years.

(2) If the child is under the age of 12 years, an offender against Subsection (1) is guilty of a crime and is liable, subject to Section 19, to imprisonment for life.

(3) If, at the time of the offence, there was an existing relationship of trust, authority or dependency between the accused and the child, an offender against Subsection (1) is guilty of a crime, and is liable, subject to Section 19, to imprisonment for life.

229B. SEXUAL TOUCHING

⁷⁵(1) A person who, for sexual purposes –

(a) touches, with any part of his or her body, the sexual parts of a child under the age of 16 years; or

(b) compels a child under the age of 16 years to touch, with any part of his or her body, the sexual parts of the accused person's own body, is guilty of a crime.

Penalty: Subject to Subsection (4) and (5), imprisonment for a term not exceeding seven years.

(2) For the purposes of this section, "sexual parts" including the genital area, groin, buttocks or breast of a person.

(3) For the purposes of this section, a person touches another person if he touches the other person with his body or with an object manipulated by the person.

(4) If the child is under the age of 12 years, an offender under Subsection (1) is guilty of a crime, and is liable to imprisonment for a term not exceeding 12 years.

(5) If, at the time of the offence, there was an existing relationship of trust, authority or dependency between the accused and the child, an offender against Subsection (1) is guilty of a crime, and is liable to imprisonment for a term not exceeding 12 years.

229C. INDECENT ACT DIRECTED AT A CHILD

76(1) A person who commits an indecent act directed at a child under the age of 16 years is guilty of a crime.

Penalty: Subject to Subsection (2) and (3), imprisonment for a term not exceeding five years.

(2) If the child is under the age of 12 years, an offender under Subsection (1) is guilty of a crime, and is liable to imprisonment for a term not exceeding seven years.

(3) If, at the time of the offence, there was an existing relationship of trust, authority or dependency between the accused and the child, an offender against Subsection (1) is guilty of a crime, and is liable to imprisonment for a term not exceeding seven years.

229D. PERSISTENT SEXUAL ABUSE OF A CHILD

77(1) A person who, on two or more occasions, engages in conduct in relation to a particular child that constitutes an offence against this Division, is guilty of a crime of persistent abuse of a child.

Penalty: Subject to Subsection (6), imprisonment for a term not exceeding 15 years.

(2) For the purposes of Subsection (1), it is immaterial whether or not the conduct is of the same nature, or constitutes the same offence, on each occasion.

(3) In proceedings related to an offence against this section, it is not necessary to specify or prove the dates or exact circumstances of the alleged occasions on which the conduct constituting the offence occurred.

(4) A charge of an offence against this section –

(a) must specify with reasonable particularity the period during which the offence against this section occurred; and

(b) must describe the nature of the separate offences alleged to have been committed by the accused during that period.

(5) For an accused to be committed of an offence against this section –

(a) the court must be satisfied beyond reasonable doubt that the evidence establishes at least two separate occasions, occurring on separate days during the period concerned, on which the accused engaged in conduct constituting an offence against this Division in relation to a particular child; and

(b) the court must be so satisfied about the material facts of the two incidents, although the court need not be so satisfied about the dates or the order of those occasions.

(6) If one or more of the occasions involved an act of penetration, an offender against Subsection (1) is guilty of a crime and is liable, subject to Section 19, to life imprisonment.

229E. ABUSE OF TRUST, AUTHORITY OR DEPENDENCY

⁷⁸(1) A person who engages in an act of sexual penetration or sexual touching of a child between the ages of 16 and 18 years with whom the person has an existing relationship of trust, authority or dependency is guilty of a crime.

Penalty: Imprisonment for a term not exceeding 15 years.

(2) It is not a defence of a charge under this section that the child consented unless, at the time of the alleged offence, the accused believed on reasonable grounds that the child was aged 18 years or older.

347. DEFINITION OF RAPE

¹¹⁰(1) A person who sexually penetrates a person without his consent is guilty of a crime of rape.

Penalty: Subject to Subsection (2), imprisonment for 15 years.

(2) Where an offence under Subsection (1) is committed in circumstances of aggravation, the accused is liable, subject to Section 19, to imprisonment for life.

348. ATTEMPT TO COMMIT RAPE

¹¹³A person who attempts to commit the crime of rape is guilty of a crime.

Penalty: ¹¹⁴Imprisonment for a term not exceeding 14 years.

Case authorities

State v Kankan, George Gior [2017] PGNC 25; N6630; CR 940/15

State v Kepas, Ereman [2007] PGNC 77; N3192; CR 69/07

State v Makis, Alphonse [2012] PGNC 243; N4888; CR 583/12

State v Paulo, Billy [2013] PGNC 112; N5286; CR 342/11

State v Ramram, Michael [2017] PGNC 327; N7012; CR 970/16

State v Robert Tiotam, Jack Matalau and William Lakuna

State v Tigi, Francis [2013] PGNC 114; N5307; CR 1218/10

Stealing

372. STEALING

(1) Section 372 of the *Criminal Code* provides "(1) Any person who steals anything capable of being stolen is guilty of a crime.

Penalty: Subject to this section, imprisonment for a term not exceeding three years.

Case authorities

Acting Public Prosecutor v Don Hale
State v Gabriel Ramoi (1993) PNGLR 390
State v Francis Natuwohala Laumadava (1994) PNGL 291
Gimble v The State [\[1988-89\] PNGLR 271](#)
State v Paul Tiensten [2013] PGNC 234 N5422 (22 November 2013)

Misappropriation

383A. MISAPPROPRIATION OF PROPERTY

[\[122\]](#) (1) A person who dishonestly applies to his own use or to the use of another person—

(a) property belonging to another; or

(b) property belonging to him which is in his possession or control (either solely or conjointly with another person) subject to a trust, direction or condition or on account of any other person,

is guilty of the crime of misappropriation of property.

(2) An offender guilty of the crime of misappropriation of property is liable to imprisonment for a term not exceeding five years except in any of the following cases when he is liable to imprisonment for a term not exceeding 10 years:—

Case authorities

Brian Kindi Lawi v The State [1987] PNGLR 183 Kidu CJ Amet Cory JJ
Doreen Liprin v The State [2001] PGSC 11 SC673 Amet CJ Kapi DCJ Los J
The State v Gabriel Ramoi (1993) PNGLR 390 N1140 Salika J

Joshua Yaip Avini & Plaridel Nony Acosta v The State [1997] SC523 Kapi DCJ, Los & Salika JJ

The State v Rex Lialu [1988-89] PNGLR 449

Tom Amaiu v The State [1979] PNGLR 576 Prentice CJ, Raine DCJ & Andrew J

Wellington Belawa v The State [1988-89] PNGLR 496 Bredmeyer, Wood & Barnett JJ