

A young person must be able to talk to someone, and have someone to speak on their behalf, if this is what they want. This could be a parent, other relative or a public servant. It is worth finding out if someone like this is available to talk for the young person.

Remember that most criminal charges refer to offences that may be quite hard to understand. Explaining the charge is more important than just reading it out.

Taking a plea is also quite a frightening experience, and technical words are used in recording the plea. However what you need to really know is whether the young person agrees or not with the charge. Is it admitted? If it is, then that is sufficient to record a guilty plea.

Use of simple language is the best practice, in order to make a young person understand what is going on.

4 Not Guilty Plea – Defended Hearing

If the young person says that he or she is not guilty, then the case will proceed as if they he or she were an adult. In other words, a defended hearing will need to occur for you to determine guilt or innocence.

Ask the young person why they believe they are not guilty. Sometimes they do not understand that what they have done amounts to a crime. An example is theft where three young persons decided to steal some food, and one was given the task of being the lookout. Sometimes this person pleads not guilty, thinking that because he did not go inside, he has not actually committed the offence. But this may be quite wrong, as a matter of law.

Be conscious that it may be the first time that the young person has ever been in a court.

The Police should present their evidence in the usual fashion. But you may help a young person, in asking questions of the police or witnesses.

IX JUDGMENTS

A court makes its judgment by applying the relevant law to the particular facts of the case. Courts should follow a structured approach to decision-making. The decision must be recorded in writing.

In making a judgment, the court must act fairly and impartially. Parties must be given a reasonable opportunity to be heard before a decision is made in the case.

In addition to the formal court record, Commissioners should make their own notes of the arguments and any evidence that is presented, and also note their reaction to the arguments and evidence.

1 Delivering judgment

The judge must make the decision. Under no circumstances can the decision be delegated to someone else. Even when members of the Taupulega are part of the court, the Commissioner alone must make the decision.

Every court must record its judgment in writing. Each judgment must contain the reasons for the decision and be signed by the Commissioner (Rule 93 of the Crimes Rules).

Judgments of a village Appeal Committee must be made by consensus and be signed by all the judges.

2 Procedure for writing a criminal judgment

1. Introduction

The first paragraph explains the issue of the case.

2. *Briefly explain the facts of the case*

Summarise the facts and explain what actually happened,

Give only the relevant facts of what happened. Only go into the detail where it is necessary to do so.

3. *The Law*

- State the relevant law
- Important to ask yourself “Who needs to prove that an offence was committed?”
- The offence needs to be proved beyond reasonable doubt
- All elements of the offence need to be proved
- In a civil case, all elements of the claim must be proven on the balance of probabilities.

4. *Investigation of the facts that must be proved*

Facts in dispute must be identified, and reasons given for any decision on conflicts in evidence.

5. *Relevant facts of the case*

Apply law to relevant facts.

6. *Conclusion*

In a criminal case, the conclusion must state whether the defendant in a criminal case is guilty or not guilty.

In a civil case, the conclusion will state whether the defendant is liable or not liable.

7. *Decision*

The order of the court must be clear, and in accordance with the maximum penalty or award that can be imposed by that court.

Template for judgment

Introduction

This introduces the case before the court.

Statement of the facts of the case

Explains what happened

The law

State the relevant rules and who has the duty to prove what facts.

Application of the law to the facts

Reasoning on the disputed matter

Conclusion

Verdict (guilty or not guilty)

Sentence

In the case of sentencing, it is to be dealt with separately after hearing any relevant comments from the parties.

Case Scenario

Puga is charged for being drunk in a public place under rule 52 (drunkenness) of the Crimes Rules.

The Police allege that on the morning of 25 August 2005 Puga and Lata has been drinking beer on the steps behind the store opposite Hieni's house. On or about midday Hieni observed from her house that Puga was drunk and was creating disturbances around the area. Hieni alleged that after consuming an enormous amount of alcohol Puga shouted obscene words at her family. Hieni then called the Police. The Police escorted both men to their houses. Both men were questioned and admitted drinking but argued that they were not drunk.

Procedure of Making a Judgment

1. Introduction

The first paragraph introduces the case.

This is a case about Puga who is charged with being drunk in a public place and causing a disturbance. The charge is brought under Rule 52(i) of the Crimes Rules.

2. Brief statement of the facts of the case

Explains what actually happened.

On the morning of 25 August 2005 Puga and Lata were drinking beer on the steps behind the store opposite Hieni's house.

On or about midday Hieni observed from her house that Puga, a quiet young man, was drinking beer and creating disturbance in the area.

Hieni alleged that after consuming an enormous amount of alcohol Puga shouted obscene words to her family.

Hieni then called the Police. The Police escorted both men to their houses.

In accordance with the Police Report both men were questioned and admitted drinking and shouting obscenities but argued they were not drunk.

3. The Law

Who should prove that the offence was committed?

Under Rule 52, the prosecution must prove beyond reasonable doubt that Puga was drunk, that he was in a public place, and that he caused disturbance.

How will the prosecution prove its case?

The community should provide some information (through police report and witnesses) to prove beyond reasonable doubt that Puga committed the offence.

It is not the responsibility of Puga to prove that he did not commit the offence.

Elements of the offence that must be proved

Elements of the offence under Rule 52(i):

- a person (the accused)
- drunk
- public place
- caused a disturbance.

It must therefore be proved that:

- Puga was drunk
- Puga was drunk in a public place
- Puga caused the disturbance.

It is important that all elements of the offence are proved.

Under the law, if one of the elements of the offence is not proved then Puga did not commit the offence charged.

4. Investigation of statements that must be proved

Facts that are not in dispute

The information before the court shows that the following facts are not in dispute:

1. Puga is a quiet person.
2. On August 2005 Puga was drinking on the steps behind the store and opposite Hieni's house.
3. Puga caused disturbance and Puga called out obscene words to Hieni's family.
4. The area where Puga was drinking is a public place.

Facts that are in dispute

Was Puga drunk?

5. Reasoning

A person is drunk when they have consumed alcohol and as a result have lost normal control of their behaviour. It is admitted that Puga had consumed alcohol, and that his behaviour was uncharacteristic. Given that Puga is normally a quiet young man, it must have been the alcohol that led him to cause the disturbance and shout the obscene words. Puga was therefore drunk.

6. Conclusion

What is your conclusion on the case?

Puga was drunk in a public place and caused disturbance.

7. Verdict

Puga is guilty of an offence under Rule 52 of the Crimes Rules. Puga is convicted.