

IN THE HIGH COURT OF KIRIBATI) HIGH COURT CRIMINAL APPEAL 25 OF 2008
CRIMINAL JURISDICTION)
HELD AT BETIO)
REPUBLIC OF KIRIBATI)

BETWEEN: THE REPUBLIC APPELLANT

AND: AKINETI ATAUEA RESPONDENT

FOR THE APPELLANT: MS TAAIRA TIMEON
FOR THE RESPONDENT: MS TAOING TAOABA

DATE OF HEARING: 4 FEBRUARY 2009

JUDGMENT **(EX TEMPORE)**

The respondent was charged with criminal trespass and disobeying a summons. The minute shews she pleaded guilty and admitted the facts. The Single Magistrate however refused to accept the plea of guilty to the charge of criminal trespass. The minute has her saying:-

You are also found not guilty for this crime but since the court finds that it cannot be proved beyond reasonable doubt that you had the intention of committing the crime of provoking the owner, the charge against you is dismissed.

The Single Magistrate was in error in dismissing the charge. Any judicial officer presiding in a criminal court may refuse to accept a plea of guilty if he or she considers it not justified for some reason – e.g. the accused does not understand what is going on – but instead must enter a plea of not guilty on behalf of the accused. The prosecution must then be given the opportunity to prove the charge.

That is what should have been done in this case. The appeal is allowed, the order dismissing the case is quashed and the case returned to the magistrates' court for rehearing in accordance with these reasons.

Robin Millhouse

THE HON ROBIN MILLHOUSE QC
Chief Justice