

IN THE SUPREME COURT OF NAURU

Criminal Jurisdiction

Criminal Appeal No. 10 of 1976

HELON KENAN DEANGONAIMWI
& SANDY DABUAE

Appellant.

v.

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

10th August, 1976 at 9.45 a.m.

In Court

Before Mr. Justice I.R. Thompson, Chief Justice

For the Republic: I/P D. Gioura

For the Appellants: Mr. K. Aroi

Appellants present.

Mr. Aroi applies for adjournment.

ORDER: Adjourned until the 16th August, 1976 at 8.30 a.m.

I.R. THOMPSON
Chief Justice

10/8/76

16th August, 1976 at 9.30 a.m.

Same appearances.

Appellants present.

MR. AROI: Appeal is against severity of sentence*.

The two appellants were convicted with an adult.
The District Court was wrong in imposing the same sentence
on them as on the adult.

Sandy Dabuae is 18. He has only one p.c. in 1972.

The two appellants were led into the crime by the adult person. They were there only to keep him company.

MR. GIOURA: Special consideration should be given to the previous service of the appellant Dowedia. He has been constantly involved in trouble, including two offences of stealing.

I agree that the age of the appellants should be taken into consideration. But the appellant Dowedia is unlikely to reform.

The appellant Dabuae has one p.c. in 1972.

The magistrate took the ages of the appellants into consideration. He also took into account the circumstances of the offence.

MR. AROI: I have nothing more to say.

JUDGMENT:

The magistrate took into account the ages of the two appellants and in my view did not err in imposing the sentence which he did upon the appellant Dowedia. That appellant, although young, has a shocking record.

The other appellant, however, Dabuae, has only one previous conviction in 1972. While the circumstances of the offence make a sentence of imprisonment necessary, the appropriate sentence would have been that which this Court has decided in other appeals heard during these Sessions should have been imposed for such offences on persons with good previous records.

Accordingly the appeal of the appellant Dowedia is dismissed but the appeal of the appellant Dabuae is allowed. The sentence imposed on Dabuae is set aside and a sentence of one month's imprisonment is imposed in its place.

I.R. THOMPSON
Chief Justice

16/8/76

*(Sentence: 3 months' imprisonment.)