

IN THE SUPREME COURT OF NAURU

Criminal Jurisdiction

Criminal Appeal No. 8 of 1976

WILLIAM TEABUKE

Appellant

v.

DIRECTOR OF PUBLIC PROSECUTIONS Respondent

19th 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 Appellant: Mr. K. Aroi

MR. AROI: I ask 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 8.35 a.m.

In Court

Same appearances.

Appellant present.

MR. AROI: Appeal is against severity of sentence. Magistrate did not take into account the special circumstances.

Appellant is young man; has three children. Prior to offence appellant's child was in hospital. When a patient is in hospital it is often necessary for close relatives to be in constant attendance. Due to general lack of confidence in nursing services.

Appellant faced dilemma. He had to make frequent calls at hospital. Needed petrol for transport of wife to visit child. Petrol could not be bought from anywhere. Coupons were issued for 3 gallons a fortnight, not sufficient under the circumstances.

Public transport available only twice a day. No evening service.

Appellant was incited by his wife to obtain petrol by any means. He is not noted for being very intelligent. He is less guilty than the person who incited him.

The appellant admitted the offence but considers that there was mitigating circumstances. He supports his family. The sentence of imprisonment is harsh and not warranted.

COURT: According to the record the appellant's house is in Aiwo. The hospital would, therefore, be about a mile or a mile and a half from his house. Why could his wife not walk then?

MR. AROI: Perhaps in other societies it is within walking distance. In Nauru people do not walk such distances under the sun. A reasonable Nauruan man would not walk that distance.

MR. GIOURA: Evidence before District Court that appellant went to steal petrol. 6 gallons a fortnight was the ration; it was adequate for purpose of wife visiting the hospital if used carefully. The appellant drove around, wasting petrol, in his effort to find petrol to steal.

MR. AROI: Those are not facts of this case.

MR. GIOURA: I apologise. That is so. The petrol available on the coupons were adequate to meet the situation.

MR. AROI: I cannot refute what Mr. Gioura has said as to the question of quantity. At one time it was 3 gallons a week and at another 3 gallons a fortnight. There is evidence that the car did run out of petrol.

JUDGMENT:

I am not impressed with the plea that petrol was needed to carry the appellant's wife to and from the hospital. As Mr. Gioura has pointed out, if the petrol available on the coupons was used with care it should have been adequate for the purpose. The return journey is one of not more than 3 miles. Also, in spite of what Mr. AROI has suggested, there is no reason why the distance could not be walked by the appellant's wife without any extreme discomfort. Certainly nothing in the circumstances in any way justified the stealing of petrol to use in the car.

However, as in similar cases a sentence of one month's imprisonment has been imposed on persons with no recent previous convictions and as the appellant has not been convicted for nearly four years, I consider that the appropriate sentence in his case is one month's imprisonment.

The appeal is allowed, the sentence 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' hard labour for stealing.)