

IN THE SUPREME COURT OF NAURU

Criminal Jurisdiction

Criminal Appeal No. 13 of 1977

PHILOMENA DIEMA

Appellant

v.

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

9th January, 1978 at 2.30 p.m.

In Court

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

For the Republic: Mr. D.G. Lang

For the Appellant: Mr. P.H. MacSporran

Appellant present.

Interpreter: Mr. Alec Harris, Clerk of Courts

Appeal against sentence*only.

MR. MACSPORRAN: The appellant is aged 21. Single; no children. Unemployed. Had not been in trouble since early 1974; all those P.C. were for traffic offences.

D.P.P.: We accept that they are not relevant.

MR. MACSPORRAN: Sentence of 3 weeks' imprisonment is excessive in circumstances. Fine could be adequate.

The appellant was refusing to be taken to the hospital for test as to intoxication. Offence relates to the manner of refusal. Does not warrant so severe a sentence.

MR. LANG: P.C. not relevant.

Magistrate well aware of situation over recent months that people of young age taken to police station have acted badly, i.e. been abusive, etc.

Having regard to previous record of accused, however, I cannot support sentence of imprisonment. Deterrent sentence, i.e. a fine, not a bond, is required by the circumstances.

MR. MACSPORRAN: Nothing further to add.

COURT: The offence, due to its prevalence warrants a deterrent sentence. In respect of persons not previously of good character that sentence may well need to be one of imprisonment. But where the accused person is of previous good character imprisonment is not the proper sentence for such an offence.

The sentence will be set aside and a fine imposed. Before the quantum of the fine can be determined it is necessary for the Court to know details of the means of the appellant and, in view of her age, her family.

MR. MACSPORRAN: I ask for adjournment.

ORDER: Adjourned until 13/1/78 at 9 a.m.

I.R. THOMPSON
Chief Justice

9/1/78

9th January, 1978 at 3.00 p.m.

In Court.

For the Appellant: Mr. MacSporran

For the Republic: Mr. D. Lang, D.P.P.

Appellant present.

Interpreter: Mr. Alec Harris, Clerk of Courts

Crim. Appeal No. 13/77

page 3.

MR. MACSPORRAN: I am advised that the appellant has adequate means to pay the maximum fine of \$10 which can be imposed.

JUDGMENT:

The sentence of imprisonment is set aside; in lieu of that sentence, I sentence the appellant to pay a fine of \$10.

I.R. THOMPSON
Chief Justice

9/1/78

*(Sentence: 3 weeks' imprisonment.)