

PUBLIC PROSECUTOR

-v-

YAMTOU NALING

Coram: Mr. Justice F.G. Cooke, Chief Justice.
Mr. J. Bolango, Assessor.
Mr. P. Malsangai, Assessor.
Mr. R. Wainai, Interpreter.
Miss J. Walsh, Chief Registrar.

JUDGMENT

In this case Yamtou Naling was formerly a prison warder at No.1 Prison Vila.

He was charged that on or about the 4th day of April, 1982, at Port Vila, did receive four bottles of liquor knowing that the said bottles had been obtained by the commission of an offence, contrary to section 131 of the Penal Code.

The accused appeared before me and the assessors on the 22nd of July 1982, and pleaded guilty to the charge.
I accepted his plea and convicted him of the said charge.

The facts as outlined by the prosecution was to the effect that on the 3rd and 9th of April 1982, a large number of prisoners escaped from No.1 Prison. The accused at the time was a policeman employed as a warder at the said prison.

The prisoners who escaped committed a number of offences when away from the prison including two unlawful entries and theft of goods valued over 270,000VT.

Among the stolen items were four bottles of liquor. One of the prisoners who escaped named Pierre Yakeula before returning to the prison hid four bottles of liquor in a hedge outside the prison. The following day after the escape the said prisoner told the accused about the bottles of liquor.

The accused without informing his superiors took the four bottles of liquor to his house and consumed them.

In his statement to the police, the prisoner Yakeula did state that he had not told the accused that the bottles were actually stolen.

In his confession to the police the accused said the prisoner Yakeula told him there was some drinks outside the prison in the grass and

and that he went and found one bottle of wine, half a bottle of gin, half a bottle of vodka and half a bottle of champagne. He collected the bottles and brought them to his house and consumed them later with another person. He said he did not ask the prisoner where he had taken the drinks from. He thought that a visitor had brought them. Further that he did not tell his superior officer Inspector Damas about the drinks. He further said that he had not known that the prisoners had escaped and returned to the prison.

Both myself and the assessors did not believe the explanation of the accused in his confession. Apart from the fact that the accused pleaded guilty to the charge, we found it difficult to accept that a prisoner or indeed any visitor would produce drinks of such a variety had they not been the result of a theft from some house.

The accused had no prior conviction and the fact that he pleaded guilty was taken into consideration but in view of the gravity of the offence, I considered a short custodial sentence to be appropriate in this case.

I therefore, sentenced the accused to four months imprisonment.

Dated this 22nd day of July 1982.

Frederick G. Cooke

Frederick G. Cooke.

Chief Justice.

