

IN THE HIGH COURT OF KIRIBATI ) HIGH COURT CRIMINAL CASE No. 20 OF 2004  
CRIMINAL JURISDICTION )  
HELD AT BETIO )  
REPUBLIC OF KIRIBATI )

THE REPUBLIC  
VS  
AMON BERENATO

FOR THE REPUBLIC: MS RURIA ITERAERA  
FOR THE ACCUSED: MR AOMORO AMTEN

DATE OF HEARING: 18 MAY 2004

### J U D G M E N T

This trial should have been part of the trial on Monday of Amon and his wife Kamweau. The facts and issues are the same except in this trial the Republic is not alleging that Nei Kamweau is implicated.

I explained to counsel that as the evidence in both trials is common to all charges the Republic should have filed one indictment with five counts - three alleging offences by Amon and Kamweau jointly and two alleging offences by Amon alone. If counsel at trial thought there could be prejudice to either accused they could have applied for the counts to be severed.

I was not alert enough to pick this up before the trial on Monday. Had I been I would have directed, subject to argument contra, that both indictments be heard together. Yesterday morning all I could do, counsel not objecting, was to direct that the evidence given yesterday be part of this trial as well.

In this second trial Ms Iteraera called only two witnesses, Tiribo Maeua, the catechist and Tuite Maritino the Island Treasurer. Tiribo said, as he had of

the withdrawals of the 18<sup>th</sup> and 20<sup>th</sup> March and 2<sup>nd</sup> April, that no authority had been given for the withdrawals for the 10<sup>th</sup> March and 28<sup>th</sup> March and the group had not received monies withdrawn nor any other benefit from them. Amon kept the pass book.

Tuite said he had conducted the withdrawal on the 10<sup>th</sup> March. Amon had made it himself and he received the \$200. Amon has two signatures: that on the slips of the 10<sup>th</sup> and 28<sup>th</sup> March and that on those of the 20<sup>th</sup> March and 2<sup>nd</sup> April. I had noticed during the first trial that the signatures "Aamon" on the slips of 20<sup>th</sup> March and 2<sup>nd</sup> April were not conventional signatures at all: the name is merely printed. As there was no challenge to the fact that the withdrawals were made either jointly by husband and wife or separately by husband or wife, I did not worry about the point.

The assistant Island Treasurer, Tateraka, is dead. Tuite proved Tateraka's initials on the entry in the pass book of 28<sup>th</sup> March.

Ms Iteraera tendered the withdrawal slip of 10<sup>th</sup> March, Mr Amten not opposing (Exhibit P5). She applied to tender that of the 28<sup>th</sup> March but Mr Amten objected. We had a hearing on the voir dire. Tuite swore that he recognised the signatures on the two withdrawal slips 10<sup>th</sup> and 28<sup>th</sup> March as being those of the same person. He had seen Amon sign on the 10<sup>th</sup> March: he identified the signature on the slip of the 28<sup>th</sup> March as being Amon's. I admitted the withdrawal slip of the 28<sup>th</sup> March (Exhibit P6). Having been able myself to compare the two signatures I notice some variations between them. The first, second and fifth letters ("s" "t" and "a") are identical but the third and fourth letters ("a" or "e" and "f" or "l" are different). Yet looking at the signatures as a whole I am confident the two are the same. It would have taken a clever forger to have written the signature on the 28<sup>th</sup> March so similar to that on the 10<sup>th</sup> and I doubt if there were such a clever a forger on Butaritari. I also remarked to Mr Amten that our signatures are seldom absolutely identical each time we sign.

Another point - why it is a signature so different from the names "Amon Berenato" - is unanswered.

When the accused gave evidence he admitted his signature on the 10<sup>th</sup> March but denied it was his on the 28<sup>th</sup> March. He had by then given the pass book:-

"to Island community worker - community took it from me".

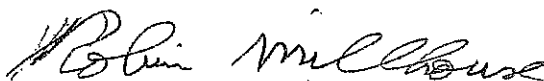
Yet he had it back five days later! In the first trial he had not disputed the fact of the withdrawal on the 2<sup>nd</sup> April.

My conclusion is that Amon saw an opportunity, the assistant Island Treasurer being dead, to dispute that he had made the withdrawal on the 28<sup>th</sup> March.

Despite Amon's denial, I find the Republic has proved beyond reasonable doubt that both withdrawals, on the 10<sup>th</sup> March and the 28<sup>th</sup> March, were made by the accused. The accused had no authority to make them and did not account for the monies he received from them.

I find the accused guilty on both counts.

Dated the 19<sup>th</sup> day of May 2004

A handwritten signature in black ink that reads "Robin Millhouse". The signature is written in a cursive style with a large initial 'R'.

THE HON ROBIN MILLHOUSE QC  
Chief Justice