



HIGH COURT OF KIRIBATI

Criminal Case No 77/2016

THE REPUBLIC

v

BURANGKE ERITANE

*Tewia Tawita, Senior State Attorney, for the Republic
Mantaia Kaongotao for the prisoner*

Date of sentencing: 14 December 2018

SENTENCE

- [1] The prisoner has been convicted of murder following a trial. The facts of this case are set out in my judgment, which was delivered on 9 November 2018.
- [2] I am obliged by law to impose a sentence of imprisonment for life. I do however have some discretion as regards the fixing of a non-parole period. Section 11(1A) of the Parole Board Act 1986 provides as follows:
 - (1A) Where a court sentences an offender to imprisonment for life, it may, at the time of passing sentence, and having regard to the particular circumstances of the case, fix a period longer or shorter than the standard period of 10 years...
- [3] The matters to be taken into consideration in the exercise of this discretion include both the circumstances of the offending as well as the personal circumstances of the prisoner.¹
- [4] Counsel for the prosecution submits that, given the facts of this case, I should fix a non-parole period longer than the standard period. Conversely, counsel for the prisoner submits that I should fix a shorter period.
- [5] The prisoner is 51 years of age. After his arrest for this offence he was able to address his alcoholism, such that he managed to find work as a deckhand on a fishing boat in the Marshall Islands in early 2017. He has a number of previous convictions from the 1980s, none of which are particularly serious, and all of which appear to be alcohol-related.

¹ *Nakibae Tiiroo v Republic*, Court of Appeal Criminal Appeal 6/2009

- [6] The most significant matter put forward by counsel for the prisoner as justifying a reduction in the non-parole period is the prisoner's medical condition. The court was initially informed that the prisoner had cancer of the throat. He was seen by a specialist Otolaryngologist from Australia a few weeks ago, who was able to say that the prisoner does not have cancer. Instead, he diagnosed a polyp on the prisoner's vocal cord, possibly a result of the deceased's assault of the prisoner described in paragraph [14] of my judgment. The polyp will require monitoring, and may need to be surgically removed at some time in the future, but it is not life-threatening. In the circumstances, I do not accept that it warrants a reduction in the prisoner's non-parole period.
- [7] After his arrest, the prisoner spent 49 days in custody prior to his release on bail. He has been in custody on remand pending trial and sentence since his return from the Marshall Islands on 28 August (a further 108 days). These periods of pre-sentence custody do need to be reflected in the sentence that I deliver today. I am therefore prepared to reduce the prisoner's non-parole period by 5 months.
- [8] There is nothing else in the circumstances of this case that I consider justifies any further reduction in the non-parole period, nor do I accept that there is anything about the facts of this case that warrants a longer non-parole period than normal.
- [9] I sentence the prisoner to imprisonment for life. Under section 11(1A) of the Parole Board Act I fix a non-parole period of 9 years and 7 months, after which the prisoner will become eligible for consideration for release on parole.


Lambourne J
Judge of the High Court



The seal of the High Court of Kiribati is circular with a red border. The text 'HIGH COURT OF KIRIBATI' is written in red capital letters around the top inner edge. The text 'TE OUNI AE E RIETATA I KIRIBATI' is written in red capital letters around the bottom inner edge. In the center of the seal is the national coat of arms of Kiribati, which features a shield with a sun, a bird, and waves, topped by a crown.