



## HIGH COURT OF KIRIBATI

*Criminal Case N° 34/2019*

### THE REPUBLIC

v

### RAATA MWEA

*Teanneki Nemta for the Republic  
Raweita Beniata for the prisoner*

*Date of sentencing: 25 February 2020*

### SENTENCE

- [1] Raata Mwea was charged with murder,<sup>1</sup> but when arraigned he pleaded guilty instead to manslaughter.<sup>2</sup> Counsel for the prosecution accepts that plea in discharge of the information, on the basis that the prisoner lacked the requisite intention at the time he inflicted the deceased's injuries.
- [2] The offence was committed on the National Day in 2016, 12 July. The deceased, a man named Tokarati Takentebwebwe, was at home in Tekarakan village on Marakei island. At about 8:00 or 9:00pm, he was talking with his brother, Riakim. Tokarati was quite intoxicated. They were visited by the prisoner, who was also intoxicated. Tokarati confronted the prisoner over a matter that had arisen during a volleyball game earlier in the day. The discussion became heated, leading to a fight between the 2 men. The fight started on a *buia*<sup>3</sup> and continued even after they fell to the ground.
- [3] Riakim was able eventually to separate the men. The prisoner's wife then warned Riakim that her husband had a knife. Riakim saw the prisoner throw a

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<sup>1</sup> *Penal Code (Cap.67), section 193.*

<sup>2</sup> *Penal Code (Cap.67), section 192(1); punishable by a maximum sentence of imprisonment for life (section 192(2)).*

<sup>3</sup> A *buia* is a raised platform with a thatched roof, usually without walls.

knife away. Only then did they realise that Tokarati had been injured, with a wound to his arm. The nurse was called, and when she came she found that Tokarati had other injuries. Altogether, Tokarati had 4 stab wounds. There were 2 wounds on his upper right arm – 1 was 3cm long and 2.5cm deep, and the other 0.5cm long and 0.5cm deep. A wound on his lower left abdomen was 4cm long and 3cm deep. A wound on his lower back was 2cm long and 2.5cm deep. The more serious of the arm wounds and the back wound required stitches. The nurse was unable to suture the abdominal wound as Tokarati refused. Tokarati was flown to South Tarawa for further treatment 2 days later. Despite the fact that his wounds were not thought to be particularly serious, he died from his injuries soon after his arrival on Tarawa.

- [4] Police were later able to recover the knife. The blade of the knife is about 13cm in length, and is keenly honed. The handle is wrapped in leather, and is about as long as the blade. The prisoner's wife told police that her husband had retrieved the knife from their kitchen shortly before going to the house of the deceased.
- [5] When spoken to by police, the accused admitted what he had done, and said that he was very drunk at the time. I am told that he does not recall having the knife with him when he went to the deceased's house.
- [6] An information charging 1 count of murder was initially filed on 26 May 2017. For reasons unclear, the prisoner did not make his first appearance in Court until 2 November 2018. Three weeks later, the Director of Public Prosecutions told the Court that the case file had been misplaced and she was unable to proceed. A *nolle prosequi* was entered and the prisoner was discharged.
- [7] It appears that the case file was later found, and a fresh information (in the same terms) was filed on 20 August 2019. Counsel for the prisoner advised the Court that his client would be pleading not guilty and the matter was fixed for trial. I understand that, in December 2019, defence counsel informed the Director of Public Prosecutions that his client was willing to plead guilty to manslaughter. That offer was rejected. Late last week, with the trial set to commence yesterday, the prosecution had a change of heart.
- [8] The prisoner is 30 years of age, making him 26 at the time of the offence. He is married, with a 4-year-old son. At the time of Tokarati's death the prisoner led a subsistence lifestyle, however I am told that he recently found work as a security guard here on South Tarawa. He has no previous convictions.

[9] In determining an appropriate sentence, I am mindful of the approach to sentencing recommended by the Court of Appeal.<sup>4</sup> Manslaughter cases present a particular sentencing challenge. As the Court of Appeal has said:

Sentencing for manslaughter is a difficult exercise because there is such a multiplicity of circumstances in which someone may cause the death of another by acting or omitting to do something unlawfully. There are consequently great differences in levels of culpability. Sentences therefore can vary considerably.<sup>5</sup>

[10] Starting points in recent cases have ranged from 6 years<sup>6</sup> up to 14 years.<sup>7</sup> The starting point is likely to be higher in a case where provocation has reduced murder to manslaughter, and lower where death results from an unlawful act or omission. This case is not at the lower end of the spectrum of seriousness – regard must be had to the fact that the prisoner went to the deceased’s house armed with a knife. In my view, it falls somewhere around the middle, perhaps towards the lower end of the middle. I consider an appropriate starting point to be 9 years. There are no particular aggravating features to the prisoner’s offending that have not already been taken into consideration in arriving at the starting point.

[11] As for mitigation, the prisoner is a first offender. He is a person of previous good character. He cooperated with the police investigation. I accept that he is sincere in his remorse. It is also significant that the deceased was the initial aggressor. For these matters I reduce the prisoner’s sentence by 6 months.

[12] The prisoner’s offer to plead guilty to manslaughter was made at an early stage of proceedings, entitling him to a significant reduction in sentence. For his plea I deduct 30 months.

[13] It has taken too long to prosecute this case. The blame for the delay must be shared between the Court and the Office of the Attorney-General. This delay violates the prisoner’s constitutional right to be afforded a fair hearing within a reasonable time. For the reasons discussed by the Court of Appeal in *Li Jian*

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<sup>4</sup> *Kaere Tekaei v Republic* [2016] KICA 11, at [10].


<sup>5</sup> *Kaere Tekaei v Republic* [2016] KICA 11, at [11]

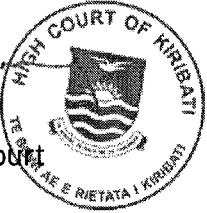
<sup>6</sup> *Republic v Tekatiba Anati* [2018] KIH 61.

<sup>7</sup> *Tebweua Teratabu v Republic* [2008] KICA 2.

*Pei*, he is entitled to a modest reduction in his sentence to compensate him for this breach.<sup>8</sup> I will reduce his sentence by another 4 months.

- [14] The prisoner is convicted on his plea of guilty. Taking all of the above matters into account, he is to be imprisoned for a period of 5 years and 8 months. I order that the prisoner's sentence is to run from 24 February 2020, being the day on which he was taken into custody on this charge.<sup>9</sup>

  
**Lambourne J**  
Judge of the High Court

The seal of the High Court of Kiribati is circular. It features the national coat of arms of Kiribati in the center, which includes a shield with a sun, a star, and waves, topped by a traditional Kiribati headdress. The text "HIGH COURT OF KIRIBATI" is written around the top inner edge of the circle, and "TE KŌRŌ E RIETATA I KIRIBATI" is written around the bottom inner edge.

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<sup>8</sup> *Attorney-General v Li Jian Pei & Taaiteiti Areke* [2015] KICA 5.

<sup>9</sup> Under section 28(2) of the *Penal Code*.