

IN THE SUPREME COURT OF NAURU

Criminal Jurisdiction

Criminal Appeal No. 17 of 1976

RUBIN TSITSI

Appellant

v.

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

2nd February, 1977, at 9.00 a.m.

In Court

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

For the Republic: Mr. L. Koko, Legal Officer

For the Appellant: Mr. R. Degoregore

Appellant present:

Appeal against conviction and sentence*.

MR. DEGOREGORE: The appellant was 19 at the time when he committed the offence.

He had a licence but it was suspended in March last year. He was fined and placed on a bond to be of good behaviour. The punishment was excessive. The Court could have imposed a lighter penalty. The appellant has broken his bond.

COURT: Do you mean by bond that his driving licence was suspended?

MR. DEGOREGORE: Yes. Because he has broken the bond he has been sentenced to serve a period of imprisonment of 3 months.

COURT: There was no suspended sentence.

MR. DEGOREGORE: I am sorry. We are appealing against sentence because of the appellant's age. A prison sentence is not appropriate. Other means of dealing with him were open to the District Court. Imprisonment should be used only as a last resort. Throughout this century increasing importance has been given to the reformation of offenders. It is particularly important in the case of young offenders.

The appellant was working at the time and depended on being able to drive a vehicle to attend work.

COURT: Why could he not ride a bicycle?

MR. DEGOREGORE: For a Maori to ride a bicycle is like being a fish out of water.

The District Court has allowed some traffic offenders to drive during working hours and disqualified them only from driving outside working hours.

The appellant cares, not like others who do not mind being jailed.

The appellant is a young person, not a regular offender.

COURT: The appeal is stated to be against conviction as well as sentence. Do you wish to address the Court on the question of the conviction?

MR. DEGOREGORE: I have nothing to say in respect of the conviction.

JUDGMENT:

The appeal against conviction has not been pursued. Clearly the evidence was adequate to support the conviction if the Magistrate believed it, as he did. With regard to sentence, the Courts have made it clear to persons disqualified from driving that, if they drive while disqualified, a sentence of imprisonment will be imposed. I cannot accept Mr. Degoregore's

assertion that a young man such as the appellant needs to travel to work by car and cannot either walk or ride a bicycle to get there. Distances in Laura are so short that travelling by bicycle is appropriate in any instance and travelling on foot is in many instances not inappropriate. There are, therefore, no special mitigating circumstances. The young as much as the old must obey the law and must take the consequences if they choose to flout it, as the appellant has done.

The sentence of 3 months' imprisonment is neither harsh and excessive nor wrong in principle.

The appeal against conviction and sentence is dismissed.

I.R. THOMPSON
Chief Justice

2/2/77

* (Sentence: 3 months' hard labour.)