

IN THE SUPREME COURT OF NAURU

Criminal Jurisdiction

Criminal Appeal No. 19 of 1977

SKAY AGIGO

Appellant

v.

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

10th January, 1978 at 11.40 a.m.

In Court

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

For the Republic: Mr. D.G. Lang

For the Appellant: Mr. G. Star

Appellant present.

Interpreter: Mr. Alec Harris, Clerk of Courts

Adjourned until 13/1/78 at 9 a.m.

I.R. THOMPSON
Chief Justice

10/1/78.

13th January, 1978 at 9.15 a.m.

For the Republic: Mr. D.G. Lang

For the Appellant: Mr. P.H. MacSporran

Appellant present.

Appeal against sentence* only.

MR. MACSPORRAN: Offence not denied. Undue weight given to allegation that drinking was outside police station, i.e. police-baiting.

In car belonging to Francis Waibeiya who had been arrested. Appellant was in car waiting to see what would happen to Francis.

He denies that they were there simply to annoy the police.

He is 18 years old.

MR. LANG: Drinking in police yard. Appellant born on 10/3/59. Has p.c. as admitted in District Court, 4 for drinking under age. Fined previously; but fines obviously had no effect. So prison sentence appropriate.

MR. MACSPORRAN: If prison sentence is necessary, 3 months is too long.

JUDGMENT:

The appellant has four previous convictions for a similar offence. The fact that on three of those occasions he was also convicted of breaches of the peace indicates the dangers of under-age drinking, both to the character of the young people concerned and to Nauruan society. As he has not reformed as the result of previous convictions and fines, the District Court had no real option (in the absence of an approved school or other reformatory institution for young persons and young adults) but to impose a prison sentence. However, I consider 3 months too long a period; it is wrong in principle where the offence is the first for which the offender is suffering imprisonment.

The appeal is, therefore, allowed; the sentence is set aside and a sentence of 2 weeks' imprisonment with hard labour is imposed in its place.

I.R. THOMPSON
Chief Justice

13/1/78

*(Sentence: 3 months' hard labour.)