

POLICE v MUSU (OPETAIA)

Supreme Court Apia
5, 6 March 1975
Scully CJ

CRIMINAL LAW (Evidence) - Admissibility - Statement to Police by accused - Hearing in absence of assessors at which accused elected to testify - Statement held voluntary and ruled admissible: Police v Samasoni Apa [1950-1959] WSLR 106, R v Burgess [1968] 2 QB 112 at 117, applied.

Epati for prosecution.
Apa for defendant.

SCULLY CJ (orally). Counsel for the accused indicated that he proposed to object to the admissibility of the statement made to the Police by the accused. I thereupon ordered the assessors to retire while the matter was argued.

I ruled that the prosecution should call its witnesses on the statement and the accused could give evidence if he so desired. He elected to give evidence.

The matter was heard all yesterday and today and was dealt with exhaustively and microscopically.

I have heard the evidence and observed the demeanour of the witnesses during examination in chief and under cross-examination. I have now heard the submissions of counsel and have reflected on the cases cited.

The question of the admissibility of a statement was considered fully in Police v Samasoni Apa [1950-1959] WSLR 106, and I now refer to R v. Burgess [1968] 2 Q.B. 112, wherein it is stated at p. 117:-

. . . voluntary in the sense that that expression is used in these courts, that is to say, it had been obtained without threat or hope of reward and without oppression.

I am satisfied to accept as the truth the evidence of the two prosecution witnesses. I reject the evidence of the accused.

I hold that there was no mental distress and no harrassing cross-examination by the Police officer taking the statement.

I hold that the prosecution has proved affirmatively that the statement was not made under any improper inducement, and that it was a voluntary statement.

The statement is therefore admissible.