

# IN THE HIGH COURT OF KIRIBATI

CRIMINAL APPEAL NO. 21 OF 2013

	[THE REPUBLIC	APPELLANT
BETWEEN	[	
	[AND	
	[	
	[TEINGOA TOMINIKO	RESPONDENT

Before: The Hon Justice Vincent Zehurikize

3 March 2015

Mr Taburuea Rubetaake for Appellant  
Mr Reiati Temaua for Respondent

Office of The Attorney General  
P.O.Box 62, Bairiki, Tarawa  
DATE

06/03/15  
RECEIVED

## RULING

Zehurikize, J: The convict was charged with Careless Driving Causing Death contrary to section 33(1) of the *Traffic Amendment Act (No. 9) of 2005*. The particulars are that on 16 November 2012 at Banraeaba village, Tarawa in the Republic of Kiribati, the accused drove a motor vehicle namely a bus on a road carelessly which caused the death of a young girl Eritiabwebwe Buratio.

The accused pleaded guilty to the charge and was convicted accordingly. It is now time for passing sentence. Both Counsel presented written submissions and made some oral clarifications.

The facts which were narrated to Court were briefly that on 16 November 2012 between 9.30 am and 10.00 am the convict was driving a bus registration No. TA 1182 Eastwards. Upon arriving at Banraeaba village the convict hit and killed the deceased who was crossing the road from left to the right side. With her mother, the deceased had just come out of another vehicle which was still parked as her mother was still paying the fare.

The convict was driving very fast but was able to see the deceased at a distance of 10 metres. But because of his careless driving he still hit the deceased and dragged her for a distance. In the process the vehicle ran over her crashing her head which led to her instant death.

In view of the careless manner in which the convict caused the accident, Mr Rubetaake, Counsel for the State, prayed that the convict be sentenced to at least 18 months' imprisonment. He cited *Republic v Rereintetaake Kanooa* CA No. 2 of 2014 to drive home his point.

In reply Mr Temaua submitted that there were several mitigating factors namely that the convict pleaded guilty thereby saving the Court's time and scarce resources, that he is a first offender without any previous convictions and that he cooperated with the police. That he is remorseful and even apologised to the family of the deceased. That he has a family of which he is the bread earner.

He cited the above case cited by the prosecution and in addition he referred the Court to *Republic v Mereke* Criminal Appeal No. 4 of 2013 also of Court of Appeal of Kiribati. However he prayed that the sentence of 18 months should be suspended.

I have considered submissions by both Counsel and the authorities cited which I found quite useful. I have in particular noted that the convict is a first offender who has pleaded guilty thereby saving the Court's time and scarce resources.

It is not disputed that he offered an apology and is remorseful. He is a family man with attendant responsibilities. But on the other hand, he caused an accident which could have been avoided had he not been driving too fast in the circumstances of that road. He ought to have noted that passengers were alighting from a bus which was parked ahead of him in which case he should have reduced the speed.

The mere fact that having come into contact with the victim, he dragged her on the road for some distance, crushed her head and ran over the body and went ahead for a further distance is an indication that he was driving too fast.

As Counsel for the State contended, a message should be sent to the drivers to drive carefully bearing in mind that now there are more vehicles than before and I would hasten to add that this busy road is rather narrow and one cannot go in for an abrupt manoeuvre to avoid an accident.


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Considering all the circumstances of the case and doing the best I can and in view of the authorities cited to me I find a sentence of 18 months' imprisonment appropriate. Therefore I sentence the convict to a term of 18 months' imprisonment. I do not find that any carelessness or neglect by the mother of the victim contributed much to the accident. It was solely the careless driving of the convict that is to blame for this tragedy.

Further the convict is hereby disqualified from driving any motor vehicle for a period of three years from the date of this Ruling. When the above time expires the convict shall not be granted a driving permit until he has passed a driving test to the satisfaction of the relevant authorities.

The right of appeal is explained.

Dated the 4<sup>th</sup> day of March 2015

  
THE HON MR JUSTICE VINCENT ZEHURIKIZE  
Judge