



HIGH COURT OF KIRIBATI

Criminal Case No 46/2016

THE REPUBLIC

v

MATAROA ANGIREREI

Eweata Maata for the Republic
Maere Kirata for the prisoner

Date of sentencing: 11 February 2019

SENTENCE

- [1] Mataroa Angirerei was charged with murder, but when arraigned he pleaded guilty instead to manslaughter, on the basis of provocation. Counsel for the prosecution accepts that plea in discharge of the information.
- [2] The offence was committed late in the evening of 12 April 2014. The deceased, a young man named Eriem Kaireiti, was a member of the prisoner's extended family. He had previously lived at the prisoner's house. It appears that he was something of a trouble-maker, with a tendency to drink alcohol to excess. On the night in question Eriem came to the prisoner's house in Betio – he was drunk and asked for food. When he was asked to leave, Eriem became upset and hit the prisoner's 3-year-old son on the head and stomach with a stick, causing him to cry. Eriem then went outside and began throwing rocks on to the roof of the prisoner's house. This was perhaps the third or fourth time that he had come to the house and caused trouble.
- [3] The prisoner became angry, and he went outside to confront Eriem. Instead of apologising for his behaviour, Eriem ran away, angering the prisoner even more. The prisoner gave chase, pursuing him for several hundred metres across Betio. On the way, the prisoner picked up what was described as an iron rod. Eriem ran to the house of Itibwebwe on the ocean-side (Itibwebwe's wife is another of his relatives). There the prisoner caught Eriem and began to beat him with the iron rod. This continued until the prisoner was pulled away by Itibwebwe.
- [4] Eriem was left lying on the ground outside – he was alive, but filthy and fully drunk. Some 20 minutes later a member of Itibwebwe's household who went to

check on Eriem found him dead. In the subsequent medical examination, Eriem was found to have abrasions to his left shoulder, right upper arm and both knees. There was a deep laceration on his left ankle, a superficial laceration on his back and a large bruise on his left side. Eriem also had 2 areas of swelling on his scalp. The doctor who examined Eriem's body did not express an opinion as to the cause of death, but it is quite possible that either or both of the head injuries resulted in brain damage, or that the beating had led to internal bleeding.

- [5] An information containing 1 charge of murder was originally filed on 6 April 2016, some 2 years after Eriem's death. For reasons unclear, the case was then not mentioned by the court until 1 August 2017. Three weeks later, a further information was filed, with the same charge but different particulars. Counsel for the prisoner advised that her client would be pleading not guilty, and the matter was fixed for trial on 14 September 2017. The trial did not proceed on that date, nor (for various reasons) on any of the several subsequent dates that were allocated for the hearing of this case. The matter came before me in August 2018, at which time it was noted that neither of the informations filed to date complied with section 70 of the *Criminal Procedure Code* (Cap.17). The Attorney-General rectified the defect on 10 August by filing a fresh information (in the same terms) signed by her. Counsel for the prisoner confirmed that her client would be pleading not guilty, and the trial was fixed for the week commencing 21 January 2019. When the case was called for trial on 21 January, counsel for the prisoner advised the court that her client would now be pleading guilty to manslaughter.
- [6] The prisoner is 35 years of age. He is married with 2 children, aged 3 and 8. At the time of Eriem's death the prisoner worked for Air Kiribati, but he now lives on Marakei, where he runs a small store. He is the family's sole breadwinner, and he also cares for his father, who is incapacitated following amputation of his leg. He has no previous convictions and, since the offence, he has become a much more active member of his church. He received counselling from a catechist, who has provided a character reference for the prisoner.
- [7] In determining the appropriate sentence for the prisoner, I am mindful of the approach to sentencing recommended by the Court of Appeal in *Kaere Tekaei v Republic*.¹ The maximum sentence for manslaughter is imprisonment for life (section 192(2) of the *Penal Code* (Cap.67)).
- [8] The Court of Appeal considered an appeal against a sentence of imprisonment for life (with a reduced parole period) on a plea of guilty to manslaughter in the case of *Tebweua Teratabu v Republic*.² In that case the appellant, who had some mental health issues, stabbed a man who had angered him by teasing him. The Court of Appeal, in allowing the appeal, expressed the view that a starting point

¹ [2016] KICA 11, at [10]

² [2008] KICA 2

of 14 years was appropriate. Following a reduction for his plea of guilty, the appellant was sentenced to imprisonment for 12 years.

- [9] The case of *Kaere Tekaei* mentioned above also concerned an appeal against sentence for manslaughter. The appellant had been sentenced at first instance to 12 years' imprisonment. He had been convicted of manslaughter following a trial on a charge of murder, with the trial judge accepting that the killing was provoked. The Court of Appeal held that an appropriate starting point in the circumstances of the case was 12 years' imprisonment, but the various mitigating factors reduced the appellant's eventual sentence to imprisonment for 6 years and 3 months. The Court 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.³

- [10] A starting point of 12 or 14 years is not going to be the appropriate starting point for all cases of manslaughter. In particular, the circumstances in *Kaere Tekaei* were considerably more serious than those in the case before me – the offence was committed in company; and the offenders had gone to the home of the deceased armed with a sword and a spear, looking for a fight.
- [11] However, the starting point in a case where provocation has reduced a charge of murder to one of manslaughter is almost always going to be higher than the starting point in a case where the death has been the result of criminal negligence on the part of the offender. In this case the prisoner was wrong to let his anger get the better of him. Had he let the police deal with Eriem the outcome would have been very different. I consider an appropriate starting point to be a sentence of 9 years' imprisonment. There are no additional aggravating features.
- [12] While the offer to plead guilty to manslaughter was not made until the weeks leading up to the trial, and therefore quite late in the day, the prisoner is still entitled to a reduction in sentence for that plea. I accept that he is remorseful for Eriem's death. He is a first offender. For these matters I deduct 18 months.
- [13] The prisoner has spent a total of 3 weeks in custody prior to sentence. He spent 10 days on remand following a failure to appear in August 2018, and has spent a further 11 days in custody before today. As a consequence, I reduce the prisoner's sentence by 6 weeks, to take account of the effect that the rules concerning parole will have on his ultimate sentence.
- [14] It is relevant that there has been an unacceptable delay in the prosecution of this case. It has been almost 5 years since the commission of the offence. Very little of that delay can be attributed to the prisoner. For the reasons discussed by the Court of Appeal in *Li Jian Pei*, the prisoner is entitled to a modest reduction in

³ [2016] KICA 11, at [11]

sentence to compensate him for the breach of his constitutional right to be afforded a fair hearing within a reasonable time.⁴ I reduce his sentence by a further 4½ months.

- [15] 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 7 years. The sentence is to run from today.


Lambourne J
Judge of the High Court



⁴ *Attorney-General v Li Jian Pei & Taaiteiti Areke* [2015] KICA 5