

IN THE DISTRICT COURT OF NAURU

Criminal Jurisdiction

Criminal Case No. 166 of 1978

THE REPUBLIC

v.

ALLAN SCOTTY

CHARGE:

1. Driving while unlicensed: C/S 23(1)(a) of the Motor Traffic Act 1937-1973.
2. Dangerous Driving: C/S 19(1) of the Motor Traffic Act 1937-1973.
3. Speeding: C/S 28(a) of the Motor Traffic Act 1937-1973.

JUDGMENT:

The case for the prosecution is that the accused was detected at about 10.15 p.m. on the 1st March, 1978 by Police Const. Aloysius Iwugia and Sgt. Perry Kapua driving a motor vehicle whilst under suspension.

It is in evidence that when the police patrol car was about to turn into a petrol station, they stopped the car after giving the signal to turn as they noticed a car coming in front. As the car passed them, they noticed the driver as the accused. Both Const. Iwugia and Sgt. Kapua have stated that it was the accused who was the driver of the car. They turned around and gave chase. The accused's car accelerated and they followed it but he was getting away from them. According to Const. Iwugia at the Anibare stretch the police car's speedometer read over 60 m.p.h. The accused ignored the police siren and the flashes. The police station was radioed requesting a police car to set up a road block somewhere in Yaren. They kept following the car and when reaching Meneng the accused ignored traffic and nearly collided with some of the cars. The police car had to slow down. AT Meneng the police car was

travelling at 70 m.p.h. At yaren there was no road block. They then requested the police to have a road block at Boe. They chased the car almost at the same speed of 70 m.p.h. and they found a police car blocking the road at the Boe end of the air-strip with flashes on. The accused avoided the police car in front, got on to the sidewalk and on to the main road again and kept on going. At that stage both police cars gave chase and after a short time the police car containing Const. Iwugia and Sgt. Kapua turned back as it could not keep up with the accused's car. But the other police car continued to give chase. Const. Alfred Eona, who was on duty at the police station, has given evidence stating that he and Const. Gabin went to the Boe end of the air-strip and positioned the police car on the road to stop any vehicles. There were two oncoming vehicles travelling very fast and the first vehicle avoided the police car, and got on to the footpath and went away. He noticed the accused as he passed in front of the police car. The accused was driving. He gave chase at about 70 m.p.h. but could not get close to the accused as he was too far in front. Somewhere in Nibok he noticed a vehicle turning off to the right and switch off its lights. They followed it with head lights on and he saw two persons jump out and run away. One was the accused. He got down from the driver's seat. He ran after the accused but could not catch him.

The accused has given evidence and has stated that at the relevant time he was drinking with two friends at the home of K. Aliklik and he has further stated that all three police officers were lying when they said they recognised him as the driver of the car. Neither Aliklik or his friends have given evidence in support. I, therefore, reject his evidence.

As regards identity of the accused all three police officers have recognised him as the driver of the car. Const. Iwugia stated that he recognised him at a distance of 7 or 8 feet when the accused's vehicle passed their car. There is also evidence that at the spot at the turn-off to the

petrol station, apart from the car's head lights, there were powerful lights in the garage. The head lights of the police car lit up the oncoming traffic. Sgt. Kapua, too, recognised the accused without any doubt and so has Const. Alfred, who saw the accused when he avoided the road block and later saw him jump out from the driver's seat of the car. Therefore, there is no doubt in my mind that it was the accused and no other who drove the car in question.

As regards dangerous driving, there is evidence that in Meneng there was traffic on the road, and that the accused nearly collided with oncoming vehicles. There is also the act of the accused in getting on to the side-walk to avoid the traffic block. Taking all these factors into consideration, I am more than satisfied that the manner of driving of the accused was dangerous to other road users.

The two police officers who gave chase have corroborated each other on all material particulars and I have no doubt in my mind that the accused was travelling in the region of about 70 m.p.h, during the chase.

The prosecution has produced Ex. "X" as regards suspension. The 1st of March comes within the period of suspension of the driving licence of the accused.

I, therefore, hold that the prosecution has proved its case beyond all reasonable doubt, and I find the accused guilty on Counts 1, 2 and 3 and convict him.

R. L. DE SILVA  
Resident Magistrate

3rd April, 1978