

IN THE DISTRICT COURT OF NAURU  
Criminal Jurisdiction  
Criminal Case No. 224 of 1978

THE REPUBLIC

v.

ORLANDO KUN

CHARGE:

Negligent driving: C/S 19(1) of the Motor  
Traffic Act 1937-1973.

JUDGMENT:

The case for the prosecution is that on the  
27th May, 1978 at about 10.25 p.m. the accused drove  
negligently on the public highway.

According to Const. Alfonso, in Anetan District,  
a car came towards the police patrol car, got on to their  
lane of traffic and forced them off the road. They turned  
round and followed the car and stopped it in Baiti District.  
The driver of the car was the accused. The accused told him  
that he was trying to turn off the road as he was sleepy  
and he could not drive. The accused said he was drunk.  
When he was requested to go with them he refused and had  
to be dragged out to the car. The accused was examined by  
Dr. Mark Kun and the report is tendered as Ex. "X". At the  
time this incident occurred the police vehicle was travelling  
near the curb of the road.

Const. Vincent Scotty, who was driving the police  
patrol car, has stated that he had to swerve his car to avoid  
a collision. He stopped his car to see whether the other  
vehicle would come back but as it did not he followed it.  
The car stopped in Baiti District and Const. Alfonso spoke  
to the driver. He helped Const. Alfonso to force the accused  
to get into the police vehicle. The police car went completely

off the road. The accused was travelling on his correct side of the road and got on to his lane of traffic.

According to the accused when he was driving home, he was stopped by two constables in Baiti District and asked to accompany them. They told him that he was being arrested because he was drunk. He has admitted, however, that he may have got onto the wrong lane of traffic.

The two police officers corroborate each other on all material points and I am satisfied on the evidence that the accused got on to the wrong lane of traffic and forced the police car off the road. The accused himself is not sure whether he did do so or not. He has stated that he may have gone off to the wrong lane of traffic.

I have also examined the submission by Mr. Star that at the time the two cars passed each other, there is no evidence that it was the accused who was driving. It was when the car failed to return that the police gave chase and stopped the car of the accused. On this point Const. Scotty has stated in no uncertain manner that he waited for the car to return but as it did not he followed the car. Taking his evidence and Const. Alfonso's, it is quite apparent that they stopped the police car and then followed the car of the accused. It is not a case where the police waited for a long period of time and then went in the direction the other car had taken and stopped the first car they met.

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

R. L. DE SILVA  
Resident Magistrate

8th June, 1978