

IN THE DISTRICT COURT OF NAURU
Criminal Jurisdiction
Criminal Case No. 72 of 1978

THE REPUBLIC

v.

MYRNA DOGUAPE

CHARGE:

Driving under the influence of intoxicating liquor:
C/S 21(1) of the Motor Traffic Act 1937-1973.

JUDGMENT:

The case for the prosecution is that in the early hours of Friday, the 30th December, 1977, Sgt. Perry Kapua detected the accused driving on the highway with only one headlight and on being stopped near Star Twinkles, the police officer noticed that the accused was under the influence of intoxicating liquor.

According to Sgt. Kapua as he was following the accused's car, he noticed that it was swaying from one side to another. He moved up and stopped the accused opposite the Star Twinkles. The accused was driving the motor vehicle and he got the smell of liquor from her. He later took the accused to the police station as she was driving under the influence and handed her over to the Desk Sergeant. At the police station, the accused was staggering.

The Desk Sergeant in his evidence has stated that the accused was brought in by Sgt. Perry Kapua and Const. Aloysius Iwugia, and he was informed that the accused was driving the car under the influence and one headlight was not working. When he spoke to her, she replied in a slurred manner. She was staggering and had a strong smell of intoxicating liquor from her breath. He questioned the accused as to whether she had been drinking and she replied that she had been drinking and that she drove the car. He then informed her that she had the right to be examined by a doctor but

the accused did not want to be examined. From his experience in the Police Force for about 18 years, he knew that the accused was under the influence.

The accused has given evidence and has stated that the police stopped her opposite the Star Twinkles and she states that she heard Const. Iwugia informing the Desk Sergeant that she was brought in because she was driving whilst under the influence.

In cross-examination, she has admitted she drank beer celebrating the New Year. She was detected at about 4.00 a.m. and she started drinking that night at about 10.00 p.m. She has also stated that she must have drank about ten cans of beer.

Although the accused has stated that she was feeling all right after ten cans of beer, I prefer to accept the evidence of Sgt. Moses Dageago who has stated that the accused was under the influence, as she spoke in a slurred manner; she was staggering and had the strong smell of intoxicating liquor from her breath. It is my belief that ten cans of beer could not leave a person cold sober and I come to the conclusion on the evidence laid before this Court by the prosecution that the accused was definitely under the influence of intoxicating liquor at the time she was detected driving her motor vehicle.

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

24th February, 1978.

R. L. DE SILVA
Resident Magistrate