



IN THE SUPREME COURT OF NAURU

[CRIMINAL JURISDICTION]

Case No. 42 of 2015

THE REPUBLIC OF NAURU

v.

JACKSON MAU

Before: Crulci J
For the Prosecution: F. Lacanivalu
For the Defence: R. Tagivakatini

Dates of the Hearing: 27 April 2016
Date of Judgment: 28 April 2016

1. Jackson Mau is charged with one offence of Entering a Dwelling House with Intent to Commit a Crime, contrary to section 420 of the *Criminal Code* 1899, and one offence of Stealing, contrary to section 398 of the *Criminal Code* 1899.

COUNT ONE

Statement of Offence

Enter Dwelling-house with Intent to Commit Crime: Contrary section 420 of the *Criminal Code* 1899

Particulars of Offence

Jackson Mau on the 25th day of February 2015 at Boe District in Nauru, at night did enter the dwelling house of His Excellency, the President, Baron Divavesi Waqa, with intent to commit a crime therein.

COUNT TWO

Statement of Offence

Stealing: Contrary to section 398 of the *Criminal Code* 1899.

Particulars of Offence

Jackson Mau on the 25th day of February 2016 at Boe in Nauru, stole a Viona 47 inch flat TV screen, two Dick Smith 23.5 inch flat TV screens and a stereo speaker in the dwelling house of His Excellency, the President, Baron Divavesi Waqa, with intent to commit a crime therein.

2. The defendant appeared on the 25 April 2016 before Resident Magistrate Garo in the District Court and indicated guilty pleas. The sentencing powers of the District Court are insufficient as the first offence was committed at night, and the defendant was committed, in custody, under section 170 *Criminal Procedure Act* 1972.
3. The Defendant was arraigned and pleaded guilty to both counts. Counsel for the prosecution and defence made submissions on the facts and sentence.
4. The defendant is a single man of 22 years of age. He lives with his family in the Boe district and works as a laborer at RONPHOS. His next-door neighbors are His Excellency the President of Nauru, Baron Divavesi Waqa, and family.
5. The offences took place in the early hours of 25th January 2015. At approximately 3 o'clock in the morning the defendant entered the home of his neighbor, the President, through a toilet window. Once inside the house the defendant went to the living room where he unlocked the back door.
6. The defendant made two trips to his home nearby to remove the items, listed in count two, from the complainant's home. The defendant returned a third time to the President's home, entered the kitchen and sat and consumed food before finally departing.

7. The President's wife, Mrs Louisa Waqa entered the living room around 7 o'clock that morning and, noticing items were missing, notified her husband. The police were called.
8. Following investigations the police executed a search warrant at the defendant's home address and a flat-screen television and a portable speaker box were located.
9. During interview the defendant admitted the offences and indicated that he had given some of the stolen goods to others. Subsequent enquiries located two other televisions and a stereo speaker.
10. The offence appears to be in part politically motivated. At the time of the commission of these offences the defendant was of good character. Subsequent to the commission of these offences the defendant has been dealt with for offensive behaviour towards the same complainant.
11. The Court views the following as aggravating features of the offence: this was a deliberate and sustained offence with the defendant coming and going from the president's home to his own house a number of times; the offence was committed at night; the defendant is a neighbour of the complainant; the offence showed the defendant's lack of respect not just to his neighbours generally but also to the office and role of his neighbour in community; the defendant appears to harbor ongoing animosity towards the complainant; the offence breached the sanctity of the complainant's home and the right of the complainant and his family to the safe and quiet enjoyment thereof.
12. The Court views the following as matters in mitigation: at the time of the commission of the offence the defendant had not previously come to the attention of the Court; he is a young man; he is in employment; he lives with his family; he fully cooperated with police and assisted in recovery of the stolen items; he is remorseful for the offences committed; he entered guilty pleas; the defendant judgment may have been impaired as he was under the influence of alcohol at the time of the offence.
13. Sections 7 and 12 of the *Criminal Justice Act* 1999 permit the Court to partly suspend a sentence with a period of probation if the sentence of imprisonment is less than twelve months. The Court is empowered to impose additional conditions on the probation period.

14. Having regard to all of the matters before the Court, the defendant is sentenced to a term of 11 months imprisonment on each count, the sentences to be served concurrently. He is to serve three months imprisonment and the remaining eight months on probation. During his time on probation, in addition to the requirements of the Probation Order, the defendant is to abstain from the use of intoxicating liquor or drugs.

15. Order

1. The defendant is sentenced to 11 months imprisonment, three months to be served; the remaining eight months to be in the community on probation.
2. The date of imprisonment is to commence from the 20th day of April 2016.

Justice J. Crutcher

Dated this 28th day of April 2016

The seal of the Supreme Court of Nauru is circular, featuring a central starburst design. The text "THE SEAL OF THE SUPREME COURT" is written around the top inner edge, and "REPUBLIC OF NAURU" is written around the bottom inner edge. A blue ink signature is written over the seal.

The Registrar of the Court shall notify the Secretary for Justice as per section 7(6) of the Criminal Justice Act 1999 that a probation order has been made in respect of the defendant by the Court