



HIGH COURT OF KIRIBATI

Criminal Case N° 50/2019

THE REPUBLIC

v

TEKITAA NAUTO

*Pauline Beiatau, Director of Public Prosecutions, for the Republic
Raweita Beniata for the accused*

Date of sentencing: 24 February 2020

SENTENCE

- [1] Tekitaa Nauto has pleaded guilty to indecent assault¹ and assault occasioning actual bodily harm.² The offences were committed on 4 September 2018 at Bubutei village on Maiana island. The victim was a 15-year-old student at the local Junior Secondary School.
- [2] At around midday on the day in question the complainant approached the prisoner, looking for alcohol. She was with an older girl, Eruka. Despite the island's elders having decreed Bubutei to be a dry village, the prisoner invited the complainant back to his house to drink fermented yeast. The 3 of them went some distance away from the house and settled down to drink. After some time, the prisoner asked the complainant to go to the house and fetch a bucket. After she returned with the bucket, the prisoner then asked the complainant to go back to the house and get his cigarette. When she got to the house, the complainant was surprised to see that the prisoner had followed her and was now naked. The prisoner grabbed the complainant's hand, causing her to stumble. He tried to drag her to a nearby bushy area, but she resisted. He hit her on the side of the head with his fist and kicked her in

¹ *Penal Code (Cap.67), section 133 – punishable by up to 7 years' imprisonment.*

² *Penal Code (Cap.67), section 238 – punishable by up to 5 years' imprisonment.*


the jaw. The prisoner then dragged the complainant to the bush, where he sat on her and tried to remove her shorts. In response to her calls for help, Eruka came. The prisoner told Eruka to leave, so she did, but then thought better of it and returned. The prisoner then threatened Eruka with a knife, so she ran to get help. However, by the time Eruka's brother arrived at the scene, the prisoner and complainant had gone.

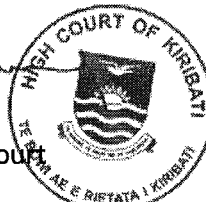
- [3] After Eruka left, the prisoner dragged the complainant to the beach. He threw the complainant into the water. He told her that he would kill her if she tried to run away. In the water the prisoner removed the complainant's shirt and shorts, leaving her in her bra and underpants. He repeatedly held her head under the water, so that she was struggling to breathe. When he held her, the complainant could feel his erect penis against her stomach. Throughout all of this she was crying and calling for help. Eventually the complainant managed to escape from the prisoner and seek help from 2 men who were fishing nearby. They took her home. From beginning to end, the complainant's ordeal had lasted about 3 hours.
- [4] When interviewed by the police, the prisoner said that he had been very drunk and had no recollection of anything he might have done to the complainant.
- [5] An information was filed in this Court on 24 October 2019. Due to delays in serving the accused on Maiana, he did not make his first appearance in Court until 20 January 2020. On 14 February, counsel for the prisoner informed the Court that his client would be pleading guilty to both counts.
- [6] The prisoner is now 35 years of age. He is married with 2 children, aged 3 and 10. He leads a subsistence lifestyle.
- [7] The prisoner's offending was serious. The complainant sustained only minor injuries, the most notable being a swelling below her right eye, but the gravity of the prisoner's conduct cannot be ignored. This must have been a terrifying and traumatic experience for the complainant. The prisoner has given no explanation for the commission of these offences. While his intoxication was clearly a contributing factor, it in no way excuses what he did.
- [8] In determining the appropriate sentence for the prisoner, I am mindful of the approach to sentencing recommended by the Court of Appeal.³ I consider the

³ *Kaere Tekaei v Republic* [2016] KICA 11, at [10].

indecent assault to be the more serious of the 2 offences. As the offending forms part of the same course of conduct, I intend to order the sentences for counts 1 and 2 to be served concurrently.

- [9] Having reviewed a number of comparable cases, I consider an appropriate starting point for the indecent assault to be 2 years. For the prolonged infliction of terror and the young age of the complainant, I will add a further period of 6 months.
- [10] There is little to be said in mitigation. He has convictions from 2005 for *Liquor Ordinance* offences, but they are of little consequence.
- [11] Save for his pleas of guilty, the prisoner has demonstrated no remorse. He insists that the complainant in some way contributed to her ordeal by asking him for alcohol. I reject that proposition. As a mature adult, the prisoner's response to the complainant's request should have been to tell her to go away. Despite his lack of remorse, the prisoner is entitled to receive credit for his pleas of guilty, so I reduce his sentence by 8 months. That brings his sentence on count 1 to imprisonment for 1 year and 10 months.
- [12] In all the circumstances, I consider that a sentence of imprisonment for 1 year is appropriate for count 2.
- [13] The prisoner is convicted on his pleas of guilty. On count 1 (indecent assault) he is sentenced to imprisonment for 1 year and 10 months. On count 2 (assault occasioning actual bodily harm) he is sentenced to imprisonment for 1 year, to be served concurrently with the sentence imposed in respect of count 1. I order that the prisoner's sentence is to run from 21 February 2020, being the day on which he was taken into custody on these charges.⁴


Lambourne J
Judge of the High Court



The seal of the High Court of Kiribati is circular. It features a central shield with a sun, a bird, and waves. The text 'HIGH COURT OF KIRIBATI' is written around the top inner edge, and 'TE MAMAE E RIETATA I KIRIBATI' is written around the bottom inner edge.

⁴ Under section 28(2) of the *Penal Code*.