

IN THE DISTRICT COURT OF NAURU
Criminal Jurisdiction
Criminal Case No. 1537 of 1976

THE REPUBLIC

vs.

KELVIN KEPHAS

CHARGE:

1. 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 the accused nearly collided with the motorcycle on which Const. David Uera was the pillion rider and after he was arrested, it was observed that the accused was under the influence of intoxicating liquor.

It is in evidence that ab about 3.00 p.m., David Uera was on the pillion of a motorcycle that was travelling at about 25 miles per hour going towards Anabar. At a certain spot the car driven by the accused which was coming from the opposite direction left the correct side of the road and went straight towards the motorcycle.

Const. Uera, in his evidence, has stated that the car was travelling at an excessive speed and that the driver of the motorcycle swerved off the road and got on to the footpath. They then made a U-turn and followed the car and stopped it. He approached the driver who was the accused and questioned him as to why he nearly collided with them. The accused then said that he was in a hurry in order to catch up with some of his friends. He questioned the accused whether he was drinking and the accused replied that he had not done so. The accused was not drunk but he noticed that he had blood-shot eyes. He took the accused to the police station and informed him that he was taking him because he was driving under the influence. Const. Uera turned them over to Sgt. Aingimea, who was the desk sergeant.

Sgt. Aingimea, in his evidence, has stated that on the day in question, Const. Uera brought the accused and informed him that the accused nearly collided with the motorcycle on which he was riding. He observed the accused and noticed that

he had blood-shot eyes and that his speech was slurred. The accused was not drunk but under the influence.

The evidence of Const. Uera and Sgt. Aingimea corroborate each other on all material particulars and the evidence before this Court that the accused had blood-shot eyes and that his speech was slurred indicates in no small measure that at the time of the incident the accused was driving under the influence of intoxicating liquor. I, therefore, hold that the prosecution has proved its case beyond all reasonable doubt and I find the accused guilty and convict him.

17th January, 1977.

R. L. DE SILVA
Resident Magistrate