

IN THE DISTRICT COURT OF NAURU Criminal Case No. 153  
OF 2013

CRIMINAL JURISDICTION

REPUBLIC

V

**Osni Scotty, Yoyo Reweru and Racky Depaune**

Date of Judgement: 16 March 2016  
Date of Submission: 18 March 2016  
Date of Sentence: 21 March 2016.

*Mr. Filimoni Lacanivalu for the Republic*  
*Mr. Ravunimase Tangivakatini for the defendant*

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SENTENCE

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1. The defendants have been found guilty of serious assault contrary to section 340(2) of the Criminal Code 1899. The offence was committed by the defendants on the 24 March 2013. The offence is declared in the Criminal Code 1899 to be a misdemeanour and the maximum penalty for the offence is 3 years imprisonment.
2. I accept the submissions by Mr. Lacanivalu that the defendants have used the strength of numbers to obstruct the police in carrying out their duty to arrest an individual who was reasonably suspected of having committed an offence. This is serious because the police are there to protect the community. The police have a duty to arrest persons who are reasonably suspected of having committed an offence or about to commit and offence. The police have a duty to protect the community by way of detecting, investigating and arresting those who break the law and bring them

to court. And if they are assaulted or stopped from carrying out their duty, those who do so once caught and brought before the court, must be expected to be punished by the court and must be expected to be sent to prison. The prosecution has submitted that I impose a sentence of three to six months imprisonment on the defendants. Against these aggravating features in the offending, I must also take into account the factors that mitigate in favour of a reduction in sentence for the defendants.

3. The defendants are first offenders. Secondly, there is nothing to show that any of them have committed any offence since 23 March 2013. I also take this into account. I have also taken into account the personal circumstances of the defendants as submitted to the court by Mr. Tangivakatini. Having done so one thing is clear and common to all defendants. They have all moved on with their lives since the 23 of March 2013.
4. I also take into account the fact that they have committed this offence on the 23<sup>rd</sup> March 2013. The court records show that the charges against the defendants were filed with the court on the 12 August 2013. So from 23 March 2013 to today 21 March 2016, it would have been a delay of two years 11 months and 23 days for which no explanation has been given by the prosecution regarding the reason for this delay.
5. With the seriousness of the offending and the offence, there is an equal responsibility on the prosecution and the police to timely bring matters to court. I must take this delay for which no explanation has been given to the court in favour of the defendants as the deciding factor in whether or not I should impose an immediate custodial sentence. It is my view that

had this case been dealt with earlier, they would have served any term of imprisonment imposed on them including the three to six months term imprisonment that the prosecution now submit that I should impose.

6. I sentence the defendants to pay a fine of \$100 dollars each to be paid within 1 month, in default of payment of fine imprisonment for 2 months. I further order that each of the will enter into his own recognisance in the sum of \$100.00 to be of good behaviour for 12 months effective from today.

Dated this 21<sup>st</sup> March 2016



Emma Garo  
Resident Magistrate