

**In the Supreme
Court of Nauru**

THE REPUBLIC

Criminal Case No. 12/2009

VS

RENDELL HUBERT

**Mr. Willisoni Kurisquila for complainant
Mr. Knox Tulenoa for the accused.**

Hearing : Wednesday 24th March, 2010.

JUDGMENT

Rendell Hubert is charged with Robbery.

PARTICULARS

“That on the Eighteenth day of June 2009 at Nauru RENDELL HUBERT did rob LAN XIANG DENG and CHEN LI XIAO of quantity of foodstuffs and petrol. And RENDELL HUBERT used personal violence to LAN XIANG DENG at the time of the Robbery”

The outline of the facts is clear. The accused and his three companions, one of them female, were driving round the Island in the accused's landrover. The accused was driving. Some or all of them were affected by liquor. They stopped at the Tiger Gas station in Aiwo, asked that the vehicle be filled with petrol. Seven dollars worth was put in. The accused went inside the shop and either before or after asking for some Twisties he picked up a chair and hit the young lady, Lan Xiang Deng on the left upper arm with it. He then went out of the shop and drove away. It seems he threw two packets of Twisties to the other occupants of the car but missed: the Twisties fell on the ground, were picked up and returned to the shop. Even so the intention permanently to deprive the shop keepers of the Twisties is plain although the intention may have failed. Neither the Twisties nor the petrol was paid for.

That is the evidence given by two ladies, Lan Xiang Deng and Cheng Li Xiao, both of whom worked at the gas station and shop. They gave their evidence through an interpreter, sometimes difficult for her. The difficulty of translation does not affect my conclusion as to the accuracy of their accounts.

Their accounts are substantially the same and are not in any way different from their statements to the police. The similarities do not give rise to any suspicion of collusion. They both identified the accused as the driver and the man who got into shop, took the Twisties and hit Lan Xiang Deng with the chair. The ladies were truthful witnesses and I accept their accounts of what happened.

The principal witness for the defence was Jenny Halstead, the female in the land-rover. She did not help the accused. On the day of the incident, in the statement to the police, she said:-

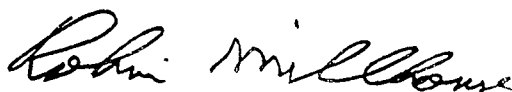
“Later Rendell then came, got in the car with the Twisties, one large Twisties and one small Twisties. I then start the car and left not knowing that the petrol and Twisties were not yet paid”.

Yet in her evidence Jenny Halstead swore she paid for the petrol. The contradiction destroyed her credibility. Her evidence did not raise any doubt about the Prosecution case.

The accused, as was his right, remained silent.

The prosecution bore the onus of proving beyond reasonable doubt every element of the offence robbery. The prosecution has succeeded. The evidence against the accused is overwhelming.

The accused is guilty of Robbery.



Robin Millhouse QC
CHIEF JUSTICE

