



**IN THE SUPREME COURT OF NAURU  
AT YAREN  
[CRIMINAL JURISDICTION]**

**Criminal Case No. 05 of 2023**

**BETWEEN:** THE REPUBLIC

**PROSECUTION**

SUMITCH DETENAMO

**ACCUSED**

**BEFORE:** Keteca J

**Hearing of Sentencing Submissions:** 18<sup>th</sup> February 2026

**Date of Sentence:** 20<sup>th</sup> March 2026

**Catchwords:** Intimidating or Threatening a Police Officer: Contrary to Section 77A of the Crimes Act 2016 (**the Act**); Causing Harm to a Police Officer: Contrary to Section 77(a)(b)(c)(d)(ii) of **the Act**.

**Appearances:**

Counsel for the Prosecution: **S. Shah**

Counsel for the Accused: **R. Tom**

**SENTENCE**

**BACKGROUND**

1. The accused was found guilty of the following offences:
  - i. Count 1- **Intimidating or Threatening a Police Officer:** Contrary to Section 77A of the Act.
  - ii. Count 2- **Causing Harm to Police Officer:** Contrary to Section 77(a)(b)(c)(d)(ii) of the Act.

2. The facts are, the accused, whilst in an inebriated state did not follow the instructions of a police officer who was requesting him not to drive. He abused the police officer by swearing at his mother. He threatened to kill the said police officer. He resisted arrest and assaulted one of the police officers.

### **PRE- SENTENCE REPORT**

3. I thank Chief Probation Officer, Jezza Valentino Agadio, for the detailed and well-written Pre- Sentence Report. The accused is 33 years old and went up to Form 7 at Nauru Secondary School. He was previously employed with RONPHOS as an electrician and the Ministry of Agriculture. He is currently employed in the Maintenance Unit for Eigigu Holdings Corporation. The accused is married with 5 children.
4. The accused has no previous convictions. Since his arrest, the accused has ‘stopped consuming alcohol.’ He has become a more responsible husband and father. His family attends the Assemblies of God church and they hold daily devotions. He is building his family home. As a tradesman; he has carpentry, electrical, plumbing and air conditioning skills.
5. The accused is the sole breadwinner; not only for his immediate family but his in- laws as well. His father in law, a diabetic, has had a leg amputated and his mother in law ‘suffers from chronic gout and mobility issues.’ Two of his sons live with their grandparents to assist them in their daily needs.’
6. The accused is remorseful. ‘His consistent work attendance, church involvement and renewed focus on family life reflect genuine contrition.’
7. ‘His means are modest. As the sole breadwinner for a family of seven, including dependents with medical needs, his financial responsibilities are significant. His current employment at Eigigu Corporation provides stability, but any interruptions to his income would place severe strain on his household.’
8. The report stresses that if the accused is given a custodial sentence, his family’s future will be dire as they all rely on him. A non- custodial sentence will be more appropriate here. The report concludes that the accused acknowledges the seriousness of the offence. ‘His remorse is sincere, his desire for restoration is evident and his potential for renewal is strong. A sentence tempered with mercy will affirm justice while opening the door for transformation, allowing the accused to rebuild his life..’

### **SUBMISSIONS BY THE STATE**

9. Counsel considered the sentencing provisions in the Act and referred to the following cases:
  - i. *R v Craven Detabene [2024] NRSC Crim Case 06 of 2023-* for assaulting a police officer in a police cell, the accused was sentenced to 95 months imprisonment.

- ii. *R v Foreman Roland [ 2023] NRSC Crim Case 04 of 2022-* for resisting arrest and assaulting a police officer, the accused was sentenced to 6 years and 25 days.
- iii. *R v Dengea [2025] NRSC 31; Crim Case 09 of 2023-* for resisting arrest and two counts of causing harm to a police officer, the accused was sentenced 3 years imprisonment. The terms were concurrent and suspended for 3 years.
- iv. *R v Hiram [2025] NRSC 21; Crim Case 10 of 2024-* the accused was sentenced to 3 years imprisonment, suspended for 3 years.

## SUBMISSIONS FOR THE ACCUSED

10. Mr. Tom submits a sentencing submission dated **18<sup>th</sup> September 2024!** This was filed on 17<sup>th</sup> February 2026. Counsel submits that the accused is *'34 years of age **single** and working for his parents at home'*. In the next sentence, Counsel writes- *'The defendant is married to Younic Detenamo.'* In the same paragraph, Counsel writes that the accused is employed as a maintenance worker for Eigigu Holdings Corp- in plumbing and Air – Conditioning. *Why say that the accused is single and working for his parents at home??* I accept the information in the Pre-Sentence Report and the References submitted for the accused that he is married with 5 children and that he works for Eigigu Corp. Counsel states that the accused *'also tends to his ill father (**widow**) who recently suffered from a mild heart attack..'* Counsel definitely meant **'widower.'** *(Counsels are reminded to properly proof read their submissions)*
11. There is reference to 3 case headings. There is no explanation as to their relevance in this case or how they support the submissions.
12. In mitigation, Counsel submits that the accused is a first offender and is remorseful. Somehow, Counsel writes- *'The defendant has agreed to participate with the investigation of the offence by complying with police instructions.'* This statement is otiose. The investigations and the trial are over. This is the Sentencing stage. Counsel concludes that a conviction coupled with a suspended imprisonment term of 3 years will be appropriate here.
13. Six-character references are provided for the accused.
  - i. **Hon Asterio Appi, M.P.**, is a member of parliament for Boe District, where the accused resides. He knows that the accused is a *'33- year old family man, married and the sole breadwinner for his household.'* The accused has 5 young children who are *'entirely dependent on him.'* The accused is employed as an air-conditioning technician and plumber with Eigigu Holdings Corp. The accused also provides *'essential services 'to his community. The accused is renowned in their community 'as a dedicated and helpful individual' and has volunteered and contributed on numerous occasions to community projects. The lapse of judgment on the accused's part in the present case is not a true reflection of his character. "A custodial or overly punitive sentence would not only impact him but would also cause significant hardship to his young family, who rely entirely on his support.'*

- ii. **Rev Morley Thoma** is the Deputy Superintendent of the Assemblies of God church in Nauru. The accused is a member of their church. He is trustworthy, a committed Christian and is involved in the Men's Praise & Worship Ministry.
- iii. **Lalupe Hilo** is the AC & Operations Manager of Eigigu Holdings Corp. The accused is a dedicated worker who easily adapts to other work like plumbing. He is diligent, reliable and a man of integrity. A lengthy sentence will adversely affect those that rely on him.
- iv. **Aimee Namaduk** is the Operations Manager, Eigigu Holdings Corp. The accused is a valued member of their team. He 'demonstrates professionalism, reliability and dedication to work.' His 'skills ensure that our facilities remain safe and functional.' The accused is known for going beyond his duties and to assist his colleagues and community members. "Those that know him personally recognize his commitment to family, his strong work ethic and his willingness to help others in time of need.' The referee seeks the leniency of the court.
- v. **Alkali Thoma** is the president of Aiwo community. He describes the accused as-  
*"He has consistently demonstrated positive character traits, including honesty and a strong sense of responsibility toward his family and neighbors."*
- vi. **Frorence Debao** is the Frontline/ Concierge Supervisor at Menen Hotel. She states that the accused continues to provide excellent work in the area of air-condition maintenance. The accused is reliable and works well with both management and staff.

## CONSIDERATION

### Maximum Penalty

- 14. On Count 1, Section 77A, 'Intimidating or threatening a police officer', this carries a maximum term of 5 years. At least a third is to be served without parole or probation.
- 15. On Count 2, Section 77 (a)(b)(c) (ii) 'Causing Harm to a Police officer' carries a maximum sentence of 20 years. At least a third is to be served without parole or probation.

### What is the appropriate sentence here?

- 16. I refer to my sentencing remarks in *Republic v Dengea* [2025] NRSC 59; Criminal Case 09 of 2023 (10 October 2025). They are equally apt here.
- 17. In *R v Serra* [1997] NTCCA 21; (1997) 92 A Crim R 511 (NT CCA) in a joint judgment, the court said (at 525)"  
*'[A] sentence should be the minimum required; the general principle in sentencing is that if less will do, more is superfluous.'*
- 18. On 'Individual Justice' (1995) 69 ALJ 421 at 424, Gleeson CJ said:  
*'the punishment is supposed to fit not only the crime, but also the criminal.'*

19. I remind myself that I must give reasons in awarding a sentence. In *WO (a child) v Western Australia* (2005) 153 A Crim R 352 (WA CA), in a joint judgment, the court said:

*‘Every court sentencing an offender is required to give reasons for that sentence. The reasons need not be elaborate, but must in every case, be sufficient to enable the offender, and the public, to understand why that sentencing disposition was chosen and to preserve to the offender the right of appeal.’*

The court added:

*‘In a context where a sentence of imprisonment is a last resort (as it is both for children and for adults, although the principle has greater weight in respect of the former), those sentencing remarks will always be deficient if it is not possible to discern from them why a sentence of detention or imprisonment, as opposed to some other disposition, was selected.’*

20. As part of my reasons, I refer to Section 278(b) of the Act that a purpose of a sentence is to ‘prevent crime by deterring the offender and other people from committing similar offences.’ In *R v Radich* [1954] NZLR 86 (CA) the court said (at 87):

*“We should say at once that this last argument omits one of the main purposes of punishment, which is to protect the public from the commission of such crimes by making it clear to the offender and to other persons with similar impulses that, if they yield to them, they will meet with severe punishment. In all civilized countries, in all ages, that has been the main purpose of punishment, and it still continues so. The fact that punishment does not entirely prevent all similar crimes should not obscure the cogent fact that the fear of severe punishment does, and will, prevent the commission of many that would have been committed if it was thought that the offender could escape without punishment, or with only a light punishment.’*

The Court added:

*“If a court is weakly merciful, and does not impose a sentence commensurate with the seriousness of the crime, it fails in its duty to see that the sentences are such as to operate as a powerful factor to prevent the commission of such offences. On the other hand, justice and humanity both require that the previous character and conduct, and probable future life and conduct of the individual offender, and the effect of the sentence on these, should also be given the most careful consideration, although this factor is necessarily subsidiary to the main considerations that determine the appropriate amount of punishment.”*

21. Section 278 (c) (to protect the community from the offender) and Section 278 (d) (to promote the rehabilitation of the offender) may be considered together. In *Yardley v Betts* (1979) 22 SASR 108; 1 A crim R 329 (CCA) said (at 112; 333):

*‘The protection of the community is also contributed to by the successful rehabilitation of the offenders. This aspect of sentencing should never be lost sight of and it assumes particular importance in the case of first offenders and other who have not developed settled criminal habits. If a sentence has the effect of turning an offender towards a criminal way of life, the protection of the community is to that extent impaired. If the sentence induces or assists an offender to avoid offending in the future, the protection of the community is to that extent enhanced.’*

22. Section 279 (2)(b) of the Act provides that I must consider the 'nature and circumstances of the offence.' This offending is another 'alcohol related 'incident. It was an end of the year party and the accused had been drinking the whole night until morning. The police officers intended to help the accused by telling him not to drive his motorbike and for a designated driver to take him home. The accused got abusive. This type of disrespectful behaviour against the police is common. An appropriate sentence should be awarded to curb such offending.
23. Section 279(2) (m) of the Act provides that I consider the character, antecedents, age, means and physical or mental condition of the accused. I have noted fully the character references provided for the accused. The referees were forthright and candid. The court is encouraged that offenders are supported and not ostracized. For future reference, this communal support for offenders is to be encouraged. He is a first offender and is not known for his violent impulses. He has a young family. They depend on him for their livelihood. I have considered fully the character references and the frank submissions for the accused.
24. I am also required to consider Section 279(2) (d)- any injury, loss or damage resulting from the offence. Sgt Marvin did not suffer any injuries. The harm caused was the pain that he felt. He did not need any medical attention for the altercation. This does not lessen the seriousness of the offending.
25. **Should the court consider the possible hardships to the accused's family?** In *R v Tilley* (1991) 53 A Crim R 1 (Qld CA) Thomas J said (at 4):  
*'An offender cannot shield himself under the hardship he or she creates for others, and courts must not shirk their duty by giving undue weight to personal or sentimental factors. The public, which includes many people who struggle to bring up their children with moral standards, would be poorly served if the courts gave in to the temptation.'*
26. In *R v Yates* (1998) 99 A Crim R 483 (Vic CA) Charles JA said (at 486):  
*'It is a well-established principle that a sentencing court should have no regard to the impact which a sentence of imprisonment will have upon members of the prisoner's family; see the case of Ingham (1974) quoted in Thomas, Current Sentencing Practice (Sweet & Maxwell, loose-leaf service)' para C4.2(a); Lynch (unreported, Court of Appeal. This is not an absolute rule and will, .... be departed from in exceptional circumstances, particularly when imprisonment will result in children being left to fend for themselves as best they can without parental supervision or support; Boyle (1987) 34 A Crim R 202, per Butt CJ at 205.*
27. Considering all the above, I enter convictions against the accused on both counts.

## CONCLUSION

28. Sumich Detenamo, you are sentenced as follows:
- i. Count 1- fined \$ 500, to be paid within 21 days from today.

29. For Count 2- Causing Harm to a Police Officer, this is quite common in this jurisdiction. In *R v Shalico Agege* Criminal Case No. 09 of 2022, ( 06<sup>th</sup> March 2026) I said- *The circumstances of the offending are still serious. The accused had no respect for the police. Although the accused was clearly intoxicated, that does not exonerate him from censure.*

30. Considering all the discussions above, the purposes of sentencing- deterrence of the accused and like-minded would-be offenders, to make the accused accountable for his actions, to denounce the conduct of the accused, to ensure that the accused is adequately punished, and the prevalence of offences against the police, I find that an imprisonment term is appropriate here. The accused is sentenced to 3 years imprisonment.

31. **Should the imprisonment term be immediate or suspended?** I consider the following cases as relevant here:

i. In *R v Ford* [2008] SASC 46; (2008) 100 SASR 94; A Crim R 398 (CCA) Gray J, with whom the others agreed, said (at [51]-[52]):

*'A sentencing judge will only turn to consider suspending a sentence of imprisonment after first determining that imprisonment is the appropriate penalty. Having decided that imprisonment is the appropriate penalty, and having decided the head sentence and non- parole period to impose, a sentencing judge may then suspend that sentence if he or she considers that good reason exists to do so.*

*Whilst 'good reason' will usually be derived from circumstances personal to the offender, there is no limitation placed on what may amount to a good reason. There must be something about the personal circumstances of the applicant or the offence that would render it inappropriate to imprison the applicant in the circumstances where imprisonment is the appropriate penalty. It is not a matter of finding something special or exceptional, but rather a matter of weighing all relevant factors.'*

ii. In *Dinsdale v The Queen* [2000] HCA 54; (2000) 202 CLR 321; 175 ALR 315; 115 A Crim R 558 Kirby J referred to the cases and said (at 347; 335; 579 [81]):

*'There is a line of authority in Australian courts that suggests that the primary consideration will be the effect such an order will have on rehabilitation of the offender, which will achieve the protection of the community which the sentence of imprisonment itself is designed to attain. But most such statements are qualified by judicial recognition that other factors may be taken into account. The point is therefore largely one of emphasis.'*

At [83]:

*'On the other hand, other judges have regarded it as impermissible effectively to confine consideration of whether to exercise the discretion to the question of rehabilitation of the offender. According to this second view, there is no warrant for holding that the decision on suspension should depend largely on the prospects of rehabilitation, or contrition, or any other factor.'* Such considerations are accepted as relevant. But they are not determinative. They do not excuse those with the responsibility of sentencing of the obligation to consider all of the circumstances.'

- iii. *PP v Buhagiar and Heathcote* [1998] 4 VR 540 (CA) Batt and Buchanan JJA (at 547) is noteworthy. They said:
- [T]here are cases where a judge may reach the view that suspension of a sentence is appropriate, not because it would be less unpleasant for the offender, but because it may be productive of reformation, which offers the greatest protection to society: R v Davey [1980] FCA 134; (1980) 50 FLR 57; 2 A Crim 254 at FLR 65; A Crim R 260-1. A suspended sentence of imprisonment is not an unconditional release or a mere exercise in leniency. Rather it is an order made in the community's interest and generally designed to prevent re-offending: at FLR 67; A Crim R 262. In deciding whether to suspend in whole or in part a term of imprisonment a judge is deciding whether in all the circumstances, the offender should have the benefit of a special opportunity for reform, to rebuild his own life, or to make some recompense for the wrong done, or should have the benefit of the mercy to which King CJ referred in R v Osenkwoski (1982) 30 ASR212 at 212-13, or for some other sufficient reason should have this particular avenue open to him, provided the conditions of the suspension are observed: R v P [1992] FCA 626; (1992) 39 FCR 276 at 285, a decision of the Full Court of the Federal Court. (The three cases cited in this paragraph all concerned Crown appeals.)*
- iv. *R v JCE* [2000] NSWCCA 498; (2000) 120 A Crim R 18 (NSW CCA) Fitzgerald JA, with whom the others agreed, said (at 22 [25]):-
- 'A suspended sentence of imprisonment is punishment';*
- v. *R v O'Keefe* [1969] 2 QB 29; [1969] 1 ALL ER 426 Lord Parker said (at 32;94): -
- A suspended sentence is a sentence of imprisonment. Further, whether the sentence comes into effect or not, it ranks as a conviction, unlike the case where a probation order is made, or a conditional discharge is given.'*
- vi. *Elliot v Harris* (No 2) (1976) 13 SASR 516 (CCA) Bray CJ said (at 527):-
- 'So far from being no punishment at all, a suspended sentence is a sentence to imprisonment with all the consequences such a sentence involves on the defendant's record and his future, and it is one which can be called automatically into effect on the slightest breach of the terms of the bond during its currency.'*

32. I have said at paragraph [23] above of the utility of the 6-character references submitted on behalf of the accused. They are persuasive. The accused is not a habitual offender with aggressive habits. As in paragraph [26] above, the principle that a sentencing court should have no regard to the impact which a sentence of imprisonment will have upon a prisoner's family' *is not an absolute rule*. It can be departed from in exceptional circumstances. I find that the good character of the accused, steady employment with no settled criminal habits, the effect an immediate imprisonment term will have on his young children amount to exceptional circumstances justifying that the accused 'have the benefit of a special opportunity for reform, to rebuild his own life and make recompense for the wrong done.' In weighing all of the above as relevant factors, I find that the imprisonment term should be suspended.

33. Sumich Detenamo, your imprisonment term of 3 years for Count 2 is suspended for 3 years.

DATED this 20<sup>th</sup> Day of March 2026.



Kiniviliame T. Kereka

Judge

