

## POLICE v POUOA UASU ET AL

High Court Apia  
4, 5 September 1958  
Marsack CJ

SENTENCE (Assault) - Matai and wife convicted of assault on young woman of their village - Daughter of defendants pleading guilty and assuming entire blame - Judge satisfied most of defence evidence perjured - Mother and daughter given suspended sentences - Father sentenced to six weeks' imprisonment and warned of result of failure to carry out his duties as a matai in future.

Sub-Inspector Young for Police.  
Defendants in person.

MARSACK CJ. This has been a distressing case, particularly because I am quite satisfied that a great many lies have been told on oath before the Court.

Now as far as you are concerned Pouoa, the charge against you is of assault on Pele and there are three witnesses to wit, Souaga, Pepe and Sina, all of whom say that they saw the blow whereby you felled Pele to the ground. That supports her story that you knocked her unconscious. I do not believe the account of the story given by you or by your wife Pa'upusi. This morning you have been permitted to call two additional witnesses who also have not been truthful before the Court, because it is clear from the evidence of Nora that they know more about giving evidence as witnesses than they were prepared to admit to the Court; and in any event the account given by Palasi shows quite clearly that by the time that she noticed the struggle, the girl was already on the ground and Sauaga was already there.

Now Sauaga was not present at the beginning of the struggle. He saw what was happening and then he came over to try to stop what was going on, with the result that the blow which I am satisfied you struck to Pele was struck before Palasi knew anything about it. Consequently, the evidence of Tolei and of Palasi that they did not see you strike a blow against Pele does not prove that you did not strike the blow before they came on the scene. In the result, you will be convicted of assault.

Pa'upusi, I am satisfied also that you were guilty of assault on Pele and that your intervention was not just for the sake of stopping the trouble. I am satisfied that you did actually lay hands on Pele.

Aitogi, you have pleaded guilty. You have not had a chance to say anything yet, but if you wish to say anything to me before I pass sentence on you, you may do so now.

In response, the defendant Aitogi made the following statement:-

Your Honour, I swear before Almighty God that it was I who caused these injuries to Pele. I struck Pele with the stone and I also bit her finger because she bit me. There were scratches on my body too.

Aitogi, you have shown up better than your parents in this case because you have acknowledged your fault, and you have also taken the

whole blame on your shoulders. But I think the fault should be placed to a great extent on your father. He has blamed you for everything that happened and I think you have accepted the blame for everything that took place that day. Aitogi, the assault you committed was a serious one and if you had not been a woman you would have gone to gaol for it; but I am going to give you a chance, not only because of the fact that you are a woman but also because you were frank during the course of the proceedings. You will be convicted and ordered to come up for sentence if called upon within twelve months; not to be called upon if - (a) you remain of good behaviour, and (b) within one month you pay £3 towards the cost of the prosecution.

Pa'upusi, the offence that you committed is not a serious one, and I am not going to impose a heavy penalty on you. You will be convicted and ordered to come up for sentence if called upon within six months; not to be called upon if - (a) you remain of good behaviour, and (b) within one month you pay £1 towards the cost of the prosecution.

I want to make it clear that that first condition really means something. You must behave well if you are to escape any further punishment. In other words, you must avoid any further trouble with Pele.

As far as you are concerned, Pouoa, you will go to gaol. It will not be a long sentence, but you will go to gaol for six weeks. I have something else to say to you, which may be of still more importance to you than the gaol sentence. You were appointed to the title Pouoa by the Land and Titles Court, and you must realize that just as the Court is able to make an appointment to that matai title, the Court is also entitled to take that title away. Now I am quite satisfied, and my view is shared by Judge Meleisea and also Judge Salā, that you have not carried out your duties as a matai since you got that title. The first duty of a matai is to look after the welfare of his family and all members of it. You have not done that.

During the time that you are in gaol you have six weeks to meditate upon the proper course that you must follow, and I will tell you this, that it is not intended at the moment to bring you up before the Land and Titles Court to show cause why this title should not be taken away from you; but I want to warn you that if there is any future repetition of your bad conduct then the Court will not hesitate to call you up before it to show cause why that title should not be taken away from you.

Pele, I am satisfied that you have been badly treated, and you have heard the punishment that has been given to the people who treated you badly. But the Court is satisfied that you yourself are not free from blame in this matter. You have, for example, used bad language to a much older woman, the wife of your matai. That is a very bad thing indeed, and you should be ashamed of it. Now you must understand that it is your duty properly to serve your matai and to respect your matai. When Pouoa comes back again into the village, then, while he is there, you will respect him, and you will render him such tautua as is proper. I do not want any more trouble in this matter at all. And, Pele, you have received very good treatment from the Court, and you must understand now that you must carry out your duty to see that there is not any more trouble.