

28/10/16  
Scan, email  
+ File.

IN THE SUPREME COURT OF TONGA

NUKU'ALOFA REGISTRY

Cr 118-123 / 20016.

REX.

V

KOBA SHINJKASHVILI

ZAZA TSIKARISHVILI

NINO MENABDISHVILI

GENADI GACECHECHILDAZE

MAI GARIBASHVILI

DATO DEKANOIDZE

BEFORE The HONOURABLE JUSTICE CATO

Mrs Langi for the prosecution

Mr Niu SC for the defence

SENTENCE

1. The defendants appeared before me today and each pleaded guilty to one count of knowingly dealing with a forged document contrary to section 172 of the Criminal Offences Act. I adjourned the proceedings for sentence this afternoon.
2. The particulars of the charge is that each accused on or about 22 September 2016 at Fua'amotu knowingly used a false document when he

Recd 28/10/16  
Cato.

or she submitted a Greek passport to the employees of the New Zealand Immigration Office and knew that the passport was false and intended to deceive the employees to act upon it as if it were genuine.

3. The essence of the charge is that the defendants, citizens of Georgia, flew to Turkey and there obtained passports that were Greek and had been stolen from a person more popularly known as a people smuggler for sum of about \$8000 USD, each. They used these passports to enter into Tonga intending to later gain entry to New Zealand. They discovered a permit was required to enter New Zealand and when they attempted to obtain one in Tonga, their deception was discovered. They were, however co-operative with the authorities and subsequently were charged. One, a minor, was travelling with them and has not been charged.
4. Both Mr Niu SC and Mrs Langi made submissions to me. Mr Niu SC originally submitted that a fine only should be imposed but conceded if a sentence of imprisonment it should be suspended. Mrs Langi contended a suspended sentence and a fine also was appropriate.
5. I made inquiry of what the intentions of the defendants were and I was assured by Mr Niu that they had the means and with valid Georgia passports which they also had with them, intended to leave Tonga as soon as travel arrangements could be facilitated. I learned from Mrs Langi that because they intended to depart voluntarily there would be no reason to use Immigration procedures for their deportation. Their decision to co-operate with Immigration authorities and the police and leave voluntarily consequently will mean that their departure is facilitated without further trouble or expense to Tongan authorities and that is something I will bear in mind in relation to the sentence, I impose.
6. It is a serious matter to use fraudulent means to enter Tonga for any reason and also as a platform from which to illegally enter other countries. This Court must send out a deterrent message that offenders will be treated

harshly by the Courts for offending of this kind. Security of borders is a paramount consideration. It is an offence against the State of Tonga as Andrews J said in R v Paeamoelotu and 'longi [2007] TLR 83 to deceive Immigration authorities, in this way. I consider I would be failing in my duty to communicate the right message should I impose any less a sentence of imprisonment than two years. All defendants are convicted and sentenced to two years imprisonment.

7. However, they have all co-operated with Tongan authorities and have pleaded guilty today with an assurance that they intend to leave Tonga as soon as their return flights have been obtained which they will pay for. Mr Niu asked for a period of two weeks for them to remain in Tonga to effect this. I intend to allow them this period to organize their return flights. Acknowledging the reality of their position, I fully suspend their sentences on the following conditions;
  - a. They are not to commit any offences punishable by imprisonment whilst they remain in Tonga.
  - b. As a further condition of suspension they are each to pay within 7 days hereof a sum of \$1000 Tongan into Court.
  - c. They are to reside at an address, which individually is to be communicated to the prosecution, throughout their remaining stay in Tonga.
  - d. They are to leave Tonga no later than 14 days from today's date. Mr Niu may apply to this Court for an extension of time to remain for a very limited period if there are exceptional difficulties in facilitating travel departure for any defendant on written notice to the prosecution

- e. Their Georgian passports are to be released individually only to enable them, as individuals, to obtain tickets where required and travel.
  - f. They are not to leave Tongatapu.
8. A failure to abide by any of these conditions may mean that the Prosecution applies to have the suspended period of imprisonment activated and the period of imprisonment served.

Dated the 26<sup>th</sup> of October 2016:



Judge

Cato J

