

Mr. Ngaue also said he had been subject to the same kind of inducement.

[2] I heard evidence from two police officers Corporal Vea and Senior Constable Heimuli. Cpl Vea gave evidence that, shortly before Christmas 2014, the accused Tupou had been arrested. He had spoken to police (he and Heimuli) and reported what he knew about the incident, but did not implicate himself. Police intended to speak to him again on the 25th December 2014, but they found that he had escaped from the Longolongo Police station. Later, on the 27th December, 2014, he was arrested from his Kolomotu'a residence. He, on the 29th December, 2014, was spoken to, again, at about 7pm, and he implicated himself as the driver in the robbery. Later, he was asked about a further statement made on the 18th January, 2015, which Mr Tupou made in relation to the arson and his involvement which the Crown also sought to adduce. In chief, Cpl Vea denied any inducements were made on any occasion and he said nor did SC Heimuli make any. He said also he had been present with Heimuli at both interviews with Mr Ngaue and denied any inducement had been made to him or that he saw Heimuli threaten to or apply any force to the accused such as pulling his shirt. He confirmed Mr Tupou was released from Police custody in February, 2014.

[3] Under cross-examination from Mr Corbett, it was put to CPL Vea that he had been involved in making inducements of the same kind namely co-operation in exchange for early release on three occasions; before the accused had spoken prior to being placed in the station on remand at Longolongo, then again before making his statement on the 29th December, 2014, and also before his final statement to the arson on the 18th January, 2015. As to Mr Ngaue, he suggested a similar inducement had been made, before both the statements he had made.

- [4] SC Heimuli was also called to give evidence. He worked closely with CPL Vea and had attended all the interviews. It was put to him also that inducements had been made and that he had forcibly grabbed Mr Ngaue by the shirt and swore at him. He denied any inducement had been made by either he or Vea, and further he had not used force or sworn at the accused, either.
- [5] Both accused gave evidence and complained that inducements had been made to them, and in Ngaue's case, that he had been subject to violence, also
- [6] I remind myself a confession must be voluntary before it is admissible. The onus of proof is on the prosecution to prove this beyond a reasonable doubt. In the case of an inducement I refer to section 21 of the Evidence Act. I remind myself also that confessions must not be obtained by force or threats of force or by oppressive means.
- [7] I have carefully considered all the evidence and considered all the authorities tendered to me. I found the police officers careful in the evidence they gave and I accept beyond any reasonable doubt that the evidence they gave was truthful, in that no inducements were made, nor was force involved and nor was there any oppressive conduct. I did not find credible Mr Tupou's evidence that he had been subject to the same inducement not once but three times, yet been denied release on bail on each occasion. Mr Ngaue had not initially shared in such a complaint of inducement, but did after the voir dire commenced. I did not find him a credible witness either, on these issues. There is no record of any complaint being raised with anybody in the police or any station officer associated with bail proceedings prior to these proceedings. Counsel is advised that if it is intended to challenge records of interview prior notice

should be given to the Court and prosecution prior to the case being set for trial, and reasons also provided in writing so that the allegations can be investigated prior to a voir dire.

[8] Accordingly, I admit the statements in evidence.

NUKU'ALOFA: 18 SEPTEMBER 2015



C. B. Cato
JUDGE