

to all the rights and obligations imposed by the system of private land ownership set forth in the standard form of title document issued by the German Government on Ponape in 1912, as heretofore or hereafter modified by law, and subject also to the right of the plaintiff Belimina, a resident of the Arou Section of the Municipality of Metalanim, to work the land, under Pelimo, in the same manner she might if she were an unmarried relative under the terms set forth in said standard form of title document. The dividing line mentioned above runs in a straight line from a pile of stones about the middle of the shore line of Nankapikap No. 177 to a pile of stones about the middle of the upland boundary of the lot.

2. This judgment shall not affect any rights of way there may be over the land in question.

3. No costs are assessed against any party.

MEDEWES, Appellant

v.

TRUST TERRITORY OF THE PACIFIC ISLANDS, Appellee

Criminal Case No. 66

Trial Division of the High Court

Palau District

August 27, 1954

Defendant was convicted in Palau District Court of disturbing the peace in violation of T.T.C., Sec. 426, by waking and calling to occupants of household during the night. On appeal, defendant contends that course of conduct in which he had engaged did not violate Sec. 426. The Trial Division of the High Court, Associate Justice James R. Nichols, held that defendant's conduct was clearly breach of the peace as defined in Trust Territory Code. Affirmed.

1. Disturbing the Peace—Generally

Where person comes to house between 1:00 a.m. and 3:00 a.m. and calls to persons therein in loud voice, frightening entire household, his course of conduct is clearly breach of the peace as defined in Trust Territory Code. (T.T.C., Sec. 426)

2. Disturbing the Peace Generally

Any person who unlawfully and wilfully commits acts which annoy or disturb other persons so that they are deprived of their right to peace and quiet is guilty of disturbing the peace. (T.T.C., Sec. 426)

<i>Assessor:</i>	R. FRITZ
<i>Interpreter:</i>	FRANCISCO K. MOREI
<i>Reporter:</i>	ZELLA L. MOORE
<i>Counsel for Appellant:</i>	ROMAN TMETUHL
<i>Counsel for Appellee:</i>	SGT. ULENGCHONG

NICHOLS, *Associate Justice*

The appellant advances as his ground for appeal that the course of conduct in which he had engaged did not constitute disturbing the peace, as defined in Section 426 of the Trust Territory Code.

The appellant argues that some time between 8:00 and 10:00 p.m., in the evening on which the alleged offense occurred, he had a headache and went to a house known as Blailahelid to borrow some medicine. The occupants of the house were asleep, so the appellant awakened Kliu and borrowed the medicine from her. Later he called another occupant named Laty two or three times. The appellant argues that he then departed and shortly thereafter some other man came, flashed a light upon the house, and made some noise.

The appellee argues that the appellant came to the house known as Blailahelid some time between 1:00 and 3:00 a.m., on the night on which the alleged offense occurred. At first, he called Kliu three times. When she awoke, he borrowed some medicine. Kliu testified that, at that time, she smelled sake on the appellant's breath. She proceeded to testify that, after the appellant inquired about a woman named Laty, who was sleeping in the house, he called her a number of times in a loud voice, frightening the entire household.

CONCLUSIONS OF LAW

[1, 2] Even taking a view of the evidence most favorable to the appellant, it is the opinion of the court that the course of conduct in which the appellant engaged was clearly a breach of the peace as defined in Section 426 of the Trust Territory Code, which says in part: "Whosoever shall unlawfully and wilfully commit any acts which annoy or disturb other persons so that they are deprived of their right to peace and quiet . . . shall be guilty of disturbing the peace."

JUDGMENT

The finding of guilty and the sentence appealed from in Palau District Criminal Case No. 199 are affirmed.

NGIRBOKETERENG, Appellant

v.

TRUST TERRITORY OF THE PACIFIC ISLANDS, Appellee

Criminal Case No. 67

Trial Division of the High Court

Palau District

August 27, 1954

Defendant was convicted in Palau District Court of affray and drunken and disorderly conduct, in violation of T.T.C., Secs. 424 and 427. On appeal, defendant contends his acts were not performed in public place. The Trial Division of the High Court, Associate Justice James R. Nichols, held that since no evidence was introduced to show building in which alleged offenses occurred was public place, prosecution failed to prove one of the elements of each of offenses charged.

Reversed.

1. Affray—"Public Place"

One of the elements to be proved in a prosecution for a violation of section 424 of the Trust Territory Code relating to affray is that the offense occurred in a "public place".

2. Drunken and Disorderly Conduct "Public Place"

One of the elements to be proved in a prosecution for a violation of section 427 of the Trust Territory Code regarding drunken and disorderly conduct is that the offense occurred in a "public place".