

F. UAAYAN, Appellant

v.

TRUST TERRITORY OF THE PACIFIC ISLANDS, Appellee

Criminal Case No. 168

Trial Division of the High Court

Yap District

May 16, 1958

Defendant pleaded guilty to charges of driving motor vehicle without operator's license and driving motor vehicle while under the influence of liquor, in violation of T.T.C., Secs. 812(a) and 815(a). The Yap District Court imposed fine of one dollar for former offense, carrying maximum fine of one hundred dollars, and fines of twenty-five dollars for latter offense, carrying maximum fine of five hundred dollars. On appeal, defendant cited error in court's denial of motion to dismiss and in imposing cruel and unusual punishment. The Trial Division of the High Court, Associate Justice Philip R. Toomin, held that complaint was proper when constable signing it had personal knowledge of the crime, and that punishment was moderate and well within court's discretion.

Affirmed.

1. Criminal Law—Complaint

Criminal complaint signed by member of Constabulary, not made on information and belief but upon personal knowledge of affiant, is proper under Rules and Regulations of Constabulary.

2. Criminal Law—Complaint—Warrant of Arrest

Anyone who desires issuance of warrant of arrest for criminal offense may personally appear and make complaint before some official authorized to issue warrant. (T.T.C., Sec. 448)

3. Criminal Law—Complaint—Warrant of Arrest

If criminal complaint states essential facts constituting criminal offense, official is authorized to issue warrant of arrest. (T.T.C., Sec. 448)

4. Criminal Law—Complaint—Defect

After plea of guilty is entered in criminal proceedings, it is doubtful whether objection as to signing of complaint is still available to defendant, since by pleading guilty defendant waives all defenses other than that indictment charges no offense.

5. Criminal Law—Complaint—Defect

Where criminal complaint charges in appropriate language offenses to which defendant has pleaded guilty, objection made in motion to dismiss in regard to signing of complaint has been waived, even if objection had merit.

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6. Criminal Law—Sentence

Where punishment which could have been imposed on defendant in criminal proceedings was twenty times as great as was imposed on him, and he could have been imprisoned for term of one year, punishment of fine only was moderate and well within discretion of District Court.

7. Criminal Law—Sentence—Comparison with Prior Sentences

District Court is not required to treat two criminal defendants alike, as court has right to consider other factors besides similarity between two defendants and their offenses in imposing punishment.

<i>Assessor:</i>	JOSEPH FANECHOR
<i>Interpreter:</i>	FEICHIN FAIMAU
<i>Counsel for Appellant:</i>	RAPHAEL A. DABUCHIREN
<i>Counsel for Appellee:</i>	NAMNEG

TOOMIN, *Associate Justice*

This is an appeal from a judgment imposing fines for violation of Sections 812(a) and 815(a) of Trust Territory Code in the operation of a motor vehicle. Section 812(a) prohibits the driving of a motor vehicle unless the driver possesses an operator's license, while Section 815(a) makes it unlawful to drive a motor vehicle while under the influence of liquor.

The defendant pleaded guilty to both charges, and the court imposed a fine of \$1.00 for violation of Section 812(a) and of \$25.00 for violation of Section 815(a). The maximum fine provided in the Code for violation of Section 815(a) is not to exceed \$500.00, or imprisonment for one year, or both, and for violation of Section 812(a), a fine of not more than \$100.00, or imprisonment of not more than thirty days, or both.

Defendant appeals on the grounds (a) that the court erred in denying his motion to dismiss the complaint before trial, and (b) that the total fine imposed constitutes cruel and unusual punishment.

[1] As to point (a) above, the basis for the motion was the alleged failure of the complainant to sign the complaint. It appeared that the complaint was signed by a member of the Constabulary, and sworn to before a District Judge. Defendant argues that the Rules and Regulations of the Constabulary prohibit the signing of complaints by a member when based on information and belief. However, an examination of the complaint establishes that it was not made on information and belief, but upon the basis of the personal knowledge of affiant. The rules of the Constabulary, including the portion quoted by defendant, permit the signing of complaints by constables having personal knowledge of a crime. This complaint obviously satisfies all of the requirements of these rules.

[2, 3] Moreover, the statutory authority for the making of complaints in regard to criminal offenses is broader than the Constabulary rules. Section 448 of the Trust Territory Code permits anyone who desires the issuance of a warrant of arrest for a criminal offense, to personally appear and make a complaint before some official authorized to issue a warrant. If the complaint states the essential facts constituting a criminal offense, the official is authorized to issue the warrant. So far as the record shows, this is the procedure followed here. It is clear, therefore, that there is no merit in this contention.

[4] Moreover, after a plea of guilty it is doubtful that this objection is still available to a defendant. By pleading guilty, a defendant waives all defenses other than that the indictment charges no offense. *Kachnic v. United States*, 53 F.2d 312, 79 A.L.R. 1366.

[5] Since the complaint in this record charges in appropriate language the offenses of which defendant was convicted, the objection made in the motion to dismiss has been waived, even if there had been any merit to the point.

[6, 7] Turning to the second contention, it is clear that the defendant misconceives the meaning of cruel and unusual punishment. The punishment which could have been imposed for violation of Section 815(a) was twenty times as great as was imposed on him. In addition, he could have been imprisoned for a term of one year. Obviously, therefore, the punishment imposed was moderate and well within the discretion of the District Court. Nor is that court required to treat two defendants alike, as the court has the right to consider other factors than the similarity between two defendants and their offenses in imposing punishment.

JUDGMENT

There being no merit in the points raised in this appeal, the judgment of the District Court of Yap District is affirmed.

YMESEI, Plaintiff

v.

NGIRAMEKETII RINGANG, Defendant

Civil Action No. 108

Trial Division of the High Court

Palau District

June 13, 1958

Action to obtain reimbursement for cost of raising female child who lived with father's side of family after father's death and later chose to leave father's family and take up residence with mother's side. Plaintiff, brother of child's deceased father, seeks to obtain reimbursement for cost of raising child from infancy until time she left father's side. The Trial Division of the High Court, Associate Justice Philip R. Toomin, held that there is no basis in Palau customary law whereby one clan is required to reimburse another for cost of raising female child.

1. Palau Custom—Family Obligations—Child Support

There is no basis in Palau custom whereby one clan reimburses or is required to reimburse another for expense of raising female child.