

THE HIGH COURT OF THE WESTERN PACIFIC
(CRIMINAL JURISDICTION)

BEFORE: His Lordship Mr. Justice J. Bodilly
exercising jurisdiction under the
provisions of the Western Pacific
(Courts) Order in Council, 1961.

HOLDEN: At Gizo in the British Solomon Islands
Protectorate on Thursday the eleventh
day of August, 1966 at 0900
o'clock in the fore noon.

REGINA

versus

WILLIAM HENRY KOLONI

For the Crown: ^{Sub-}Inspector Gordon Beti, Gizo Police.

For the Accused: In person

Interpreter: John Vaelei (pidgin)

Charge explained to the accused: by Judge.

Accused when called upon to plead says:

FIRST COUNT: Not Guilty

SECOND COUNT: Not Guilty.

Court enters a plea of:

FIRST COUNT: Not Guilty

SECOND COUNT: Not Guilty

Prosecutor: I will proceed directly with the evidence.

P.W.I. ~~Michael~~ Michael Iro:
Prisoner, central Prison, Honiara.
sworn on Bible.

I am serving a sentence of seven years for burglary and attempted rape of a woman called Mrs Knuckey at Gizo. That was on the night of 24/25 Feb 1966 at Gizo. I remember the night of 24/25 Feb. 66. I know the accused. On that night before I entered the house of Mrs Knuckey I saw the accused. He was in the cook boys house. John Kali was with him. They were talking about what they has seen. The accused told me that he has seen the District Commissioner with Mrs Knuckey. He said that he has seen them together in the sitting room of Mrs Knuckey's house. I said to the accused that that was the way of white men. John Kali did not say anything but accused asked me if I could go to that house and "creep" Mrs Knuckey. I understood him to mean by "creep" to go and have intercourse with the woman in the house. I replied that I could not because I did not know the house. Accused replied that he would show me the house. Accused did ~~not~~ know the house because he worked in the Lands Department for Mr Knuckey and used to go to the house. Accused also said "if you are a Malaita man you can go and "creep"!" Accused and I then went over to the house. There were no lights in the house. It was then about 2 a.m. When accused took me to the house we found the kitchen door a little open. Accused then showed me where the mains light switch was. It was in the kitchen. He then showed me where Mrs Knuckey's bedroom was. He also showed me where the back door was. The house was dark but we had a torch. After that we went back to the cookboys quarters. John Kali was still there when we returned. Accused said when we got back "now is the time to go and creep". I then said "I think Mrs Knuckey's door will be locked" but the accused replied "No- it is always left open". I was then about to go but the accused gave me a knife. That is the knife (Ex A) put in). I asked the accused what was the knife for. Accused said that if Mrs Knuckey refused sexual intercourse I could frighten her with the knife. Then I took the knife. I then went to the house, entered it and entered the bedroom and tried to force Mrs Knuckey to give me intercourse but she refused and I failed to force her.

When I left Mrs Knuckey's house I went on board a boat called Choiseul. The following morning I went to the quarters of a friend of mine called Selwyn Tagini. I left the knife there and went back to my own quarters.

About 7.15 am after I got to my quarters the accused arrived. He said he had heard Mrs Knuckey sing out the night before. I told him I had been creeping. He asked me if I had succeeded and I said I had not. Accused asked why I did not threaten her with the knife. I said that I had but Mrs Knuckey had screamed out.

Ex A

(sheath knife)

XX by Accused:

Q: Was I the cookboy in Mrs Knuckey's house?

A: ~~Mou were~~ not the cook but you have worked in the house.

Q: When you work with your master would you harm him?

A: No.

Q: Is it not true that you asked me for the knife?

A: No. You gave it to me.

Q Where was the knife when you say I gave it to you?

A: In your back pocket.

Q: I put it to you, ~~you~~ are lying?

A: I am not.

Q: I put it to you that I ~~did~~ not go over to the house with you at all?

A: I did go with you to the house. I am not lying.

Q: I put it to you that we never discussed Mrs Knuckey and the D.C.?

A: It is true; and John Kali was there.

Q: I say I never said " if you are a maliata man you will creep Mrs Knuckey"?

A. You did say that.

Q: I deny that the following morning I asked you if you had succeeded in having intercourse with Mrs Knuckey?

A: It is true you did ask that.

Q: I put it to you that ~~you~~ ^I never asked ~~maxwhyx~~ you why you had not used the knife?

A: You did ask that.

Re X by Pros:

Q: Is it true accused visited the house and showed you the switch and the way round the house?

A: Yes.

Q: Is it true that John Kali was present when you went to creep?

A: Yes.

Q: Is it true that the following morning the accused asked you about the previous night?

A: Yes.

Q: Is it true that the accused asked you if you had been successful?

A: Yes . That is true.

Q: Did you find any difficulty in entering the house after the accused's instructions?

A: No. I opened the broken louver and put my hand through ~~the~~ and opened the back door.

By Court:

Q: Have you seen this knife before the day of the incident?

A: Yes. I have seen it with the accused.

Q: Why did you enter through the back door which was shut if the kitchen door was already open?

A: The kitchen was locked inside. Accused told me to enter by the back door because there was a broken louver pane.

Q: After the " creeping" why did you not go back to the cookboys quarters?

A: I did not go back because I was afraid I might be caught there. Mrs Knuckey had screamed.

Q: When had she screamed?

A: I heard her scream after I ran away from the house because I could not make her give me intercourse.

(No Q's by either side on above.)

For Gordon Beti

PW2. Kipling Gordon Beti (The Prosecutor)
Sub Inspector Police, Gizo.
Sworn on Bible.

On 18.4.66 at Gizo Police station I interviewed the the accused regarding this offence. I cautioned him. He made a voluntary statement which I wrote down in the Roviana language. I correct that. I write it in pigin. I read it back to him and he agreed it was correct and signed it. I also signed it. Mr Oldcorn, ASP Police Gizo was present and he signed it also. Afterwards I made a translation to English.

(Accused does not object to the statement)

Ex B (Original) I put in the original (Ex B) and the translation
Ex C. (Translation) (Ex. C). (Both read in Court).

No XX by accused.

For Gordon Beti

Statement

NAME: Henry William Kuloni (Age) 21 Years
 ADDRESS: Gizo
 OCCUPATION: L.P.T. Co. Gizo Part time worker
 NATIVE OF: Vanikoro, Lakun, Rendova Isl.

STATION

DIVISION

18th day of April 1966

IF THE STATEMENT IS BEING TAKEN UNDER CAUTION IT WILL COMMENCE AT* AS FOLLOWS:-
 HAVING BEEN TOLD THAT HE (SHE) IS NOT OBLIGED TO SAY ANYTHING UNLESS HE (SHE) WISHES TO DO SO BUT THAT WHATEVER HE (SHE) SAYS WILL BE TAKEN DOWN IN WRITING AND MAY BE GIVEN IN EVIDENCE, STATES IN (Language used) AS FOLLOWS:-

N.B.

* Henry William Kuloni, he making one falla enquiry about a case of accessory before the fact to burglary and attempted rape which committed by Michael Ino, which you long night long 24th/25th February 1966 long Gizo you tell Michael Ino to break and enter long house belong Brenda Kurekey that night and to have ~~sexual~~ unlawful sexual intercourse with her without her consent, and as result Michael Ino then break and enter this house and did trying for unlawful sexual intercourse with Brenda Kurekey. He no stoppen you for tellen anything in answer, but anything you may say me by by written down and may be used in evidence. To show that I understand this caution I will sign my name. Henry
 He wanten you for written talk talk belong me. Fine hen come long he two falla ia me no tallen for hen go creep. Himself now hen tellen he two falla John hen say hen go for creep now. Hen now in, he two falla stop hen go away now. Now he two falla divided now. Long morning now me no asken but himself now tellen long me hen say hen now creep ia, long oppositi long Police station now hen tallen long he. Now he go up long John and he tallen long hen. Now he asken John, what way you

me two falla tellen out, John said no, now he
say what way now John said, you follow he, he
now sorry. Now he no been long any count so
he follow John no more, now he no tellen out
hen now.

This statement has been read over to he and I
have had the opportunity to add or to like from it
anything I desire. It is a true record and I
have made it of my own free will. Henry
Signed

Statement taken down, read over to Henry William Redoni
the person making it and signature witnessed by
me at Gizo Police Station at 1415 hrs. Signed B.S.S.

Witness: W. W. Adams. Atkpt.

O/c Police Western District.

" Moerengale P.C. 221

N.B.

ALL ALTERATIONS MUST BE INITIALED BY PERSON MAKING STATEMENT AND PERSON
RECORDING IT.
DO NOT LEAVE BLANK LINES OR BLANK SPACES ON LINES.
EACH COMPLETE PAGE MUST BE SIGNED BY PERSON MAKING STATEMENT AND OFFICER
RECORDING IT.

Exc.

~~Exc.~~

J.B.

Gizo

Western

18th April 1966

Henry William Kuloni

21 (age)

Gizo

L.P.T. Co. Post line Worker

Vanikupu, Lokum, Rendova Is.

Henry William Kuloni, I am making an enquiry about a case of accessory before the fact to burglary and attempted rape which committed by Michael Iro, in which you on the night of 24th/25th February 1966 at Gizo you did tell Michael Iro to break and enter the house of one Brenda Kurekey in that night and to have unlawful sexual intercourse with her without her consent, and as result Michael Iro did break and enter in this house and did attempt to have unlawful sexual intercourse with Brenda Kurekey. You are not obliged to say anything in answer but anything you may say will be taken down in writing and may be used in evidence. To show that I understood this caution I will sign my name. Henry.

I would like you to write my statement. When he came to us I did not tell him to go and creep. He himself told me and John said, he is going to creep. That is all, I and John stayed and he left us. I and John separated. In the morning I did not asked him but he told me opposite the Police Station said, he did creep. I then went to John and told him what he had say. I then asked John to tell out this but John said no. I then asked him why and John said, You follow

Gizo
Western
18th April 1966

Henry William Kuloni

21 (age)

Gizo

L.P.T. Co. Port Line Worker

Vanikua, Lokum, Rendova Is.

Henry William Kuloni, I am making an enquiry about a case of accessory before the fact to burglary and attempted rape which committed by Michael Doo, in which you on the night of 24th/25th February 1966 at Gizo you did tell Michael Doo to break and enter the house of one Brenda Kurecky in that night and to have unlawful sexual intercourse with her without her consent, and as result Michael Doo did break and enter in this house and did attempt to have unlawful sexual intercourse with Brenda Kurecky. You are not obliged to say anything in answer but anything you may say will be taken down in writing and may be used in evidence. To show that I understood this caution I will sign my name. Henry.

I would like you to write my statement. When he came to us I did not tell him to go and creep. He himself told me and John said, he is going to creep. That is all, I and John stayed and he left us. I and John separated. In the morning I did not asked him but he told me opposite the Police Station said, he did creep. I then went to John and told him what he had say. I then asked John to tell out this but John said no. I then asked him why and John said, You follow what I have said, I know what to do. I haven't been in court since then so I followed what

John have said and I did not tell any one about the matter.

This statement has been read over to me and I have had the opportunity to add or to take from it anything I desire. It is a true record and I have made it of my own free will. Henry

Statement taken down, read over to Henry William Kuloni the person making it and signature witnessed by me at Gizo Police Station at 1615 hrs Signed SD S/Dep. Witness:

A/Supt. Oldcorn

O/C Police Western District

"

Mapangala P.C. 221

Translated by me this 25th April 1966 at Gizo Police Station.

SD S/Dep.

PW3. John Kali

Labourer in Lands Department, Gizo.
Sworn on Bible.

I know the accused. He also used to work with me in Lands (Dept). We used to work from time to time round and in the house of Mr. Knuckey.

On the evening of 24/25 Feb 1966 I was in the cookboys house. I was there with the accused. The house is about 100 yards from Mr Knuckey's house. (W. demonstrates) . Michael Iro (PW1) came about 9.15 p.m. Iro asked to see the cookboy of Fr. Maise. Iro then went away. At about 9.30 he came back again. We then talked about what we had seen in Mrs Knuckey's house. Immediately after Iro left at 9.15 Mrs Knuckey's boy came. Mrs Knuckey's cook boy told accused and me that the District Commissioner was in Mrs Knuckey's house. He said that they were kissing and making love on a chair. Accused heard this talk as well as me. I then went over to the house and looked through the window and came back to accused and told him what I had seen. It was true. In the meantime Mrs Knuckey 's boy had gone away. While we were still talking about the D.C. Iro came back. I then told Iro all about it too. Accused was still present. The accused commented that the D.C. was a " high man". He said that it was not good enough for the D.C. to go with Mrs Knuckey because Mrs Knuckey is married. ~~Waxxi~~ He then said " we natives must follow what the D.C. does". Then Iro said " I will go creep". Iro went out and accused asked him if he was going to creep. Iro said he was and then acc^used said " take em knife". Iro said " what for" Accused replied " if you go creep and Mrs Knuckey refuse, you show her the knife". (Ex A shown W.) That is the knife. It was on the back of accused's belt. Accused took it off and gave it Iro who put it onto his own belt. Before the knife was handed over Iro and accused did not go out. When Iro went out to creep I would say the time ^{was} about 11 p.m. Before the knife was handed over the accused described to Iro how he could get ^{back} into the house by putting his hand round a louvre by the ^{back} door. Accused did not tell Iro about ~~the door~~ anything except the ^{back} door. Then Iro went away. After Iro had left, accused and I both went to bed. I went to sleep. I did not hear anything in the night. The following morning when I was in the boys' quarters of Bengoughs house I met accused and he told me that Iro had been creeping the house of Mrs Knuckey. I did not then say anything.

XX by Accused:

Q: Did you see me opening the door for Iro?

A: No.

(Wx Acc: means the door of Mrs Knuckey's house)

Q: Did I talk about the D.C. to Iro?

A: No.

Q Is it true I gave the knife to Iro?

A: Yes.

Q: Did you hear me talk to Iro about the house/switch?

A No

Re.X by Pros:

Q: Are sure that Iro did not ask for the knife but that the Accused gave it to him?

A:Yes

Q: Is it true that accused described to Iro how to put his hand through the broken louvre and open the door?

A:Yes.

By Court:

Q: Who said " we natives must follow what the D.C. does"?

A It was the accused.

Q: Have you seen the knife (Ex A) before that night?

A: Yes

Q; Whose is it?

A: Accused's.

Joubert Botley.

PW 4. Selwyn Taggani.

Unemployed. of Nimo Nimo.

Sworn on Bible.

I used to work for K.H.Y Co in Gizo. On 25.2.1966 I was outside my quarters at K.H.Y. Co. I know the accused. I know the witness Iro.

At about 7 a.m. Iro approached me. He came ashore from the "Choiseul" which was lying nearby at the wharf. He had a three cell torch in his hand. We had a conversation. Accused was not with him. After our chat I went to my work and Iro entered my room. At about noon I went back to my room. I then found a knife in the drawer under my table. (Ex A shown to W) That is the knife. I used it to cut some tobacco and then I put it back in the drawer. I did not know whose it was.

Next day I heard that the police were looking for a knife. I went to the drawer but found the knife was not there.

The next day after that I wanted my Biro pen which I keep in a basket on the wall of my room. I took down the basket and there I found the knife. I left the knife where it was. In the afternoon of the same day the police enquired of me for the knife and gave it to them. I did not know whose knife it was.

No XX by Accused.

By Court: I gave the knife to P.C. Nufu.

I share my quarters with Tane Sultave.

Joubert Botley.

PW5. Fulimae Gua.

of Gizo. Forestry Department Labourer.

Sworn on Bible.

I know the accused. I recognise the knife Ex A (Shown to W) . Accused borrowed it from me . It is my knife. I do not remember when he borrowed it. I heard of the attempt to rape Mrs Knuckey. It was about three days before that that he borrowed the knife. I asked him to return the knife to me on the the Saturday. I went that day and asked for the knife and the accused said to me "there is big trouble about that knife". That was the first I heard about the incident. He did not give me the knife then. I have not yet had it back.

He said "Iro used the knife but do not tell anybody",

No XX by Accused.

Foully Betrayed

PW6.

John Alexander Nufu

Police Constable No 130 Police, Gizo.

Sworn on Bible.

On 27th Feb, 1966 I carried out a search for a knife. I searched the single ~~XXXXXX~~ mens' quarters of K.H.Y.Co. (W. shown knife Ex A). I found that knife in a basket hung on the wall of the quarters occupied by Selwyn Tangani. Ex A is the knife I found. I took the knife and gave to A.S.P. Oldcorn, O.i.C Police, Gizo. I identify the knife Ex A as the same knife.

No XX by accused.

Foully Betrayed

Pros: That closes my evidence.

Defence.

Accused advised as to his rights. Elects to make statement from his place.

Accused states:

When John Kali and I were in the cook boys ^{quarters} ~~quarters~~

Michael Iro came in. He himself said that he was going to creep. Nobody forced him to go and creep. In the next morning I met Iro. I did not ask Iro what he had done but Iro told me himself. This was near the Police station. Then I went to John Kali. I told John that Iro had told me that he had been creeping the night before. I asked John what should we do. John said we ought to say nothing about it. I asked why and John^{had} " You take my advice and say nothing about it." I had never been in court before so I followed John's advice and said nothing about it.

That is all I have to say.

I have no witnesses to call.

Lonyn Boting.

Pros: does not wish to address court.

Accused says. Iro is lying. He himself decided to creep Mrs Knucky. He himself asked me for the knife and I gave to to him. I would not have given it to him if he had not asked me.

Lonyn Boting.

Case adjourned to 12th August for Judgement.

Accused to be retained in custody overnight.

Lonyn Boting.

Judgement.

The accused is charged with two counts. The first count is in respect of counselling and procuring one Michael Iro to commit housebreaking ~~at~~ the house of a married woman by name of Mrs Knuckey with intent to commit a felony, namely an attempt to rape her and the second count is in respect of that attempt.

I have heard the evidence. There are only two material witnesses to the abettment charged, namely Michael Iro himself who is presently serving sentence in a total of seven years for the housebreaking and attempted rape and one John Kali who was present throughout the alleged abettment.

I am satisfied that in general Michael Iro has told the truth but I am also satisfied that he ~~is~~ feels bitterly against the accused and to that extent I regard his evidence with caution. As regards the evidence of John Kali I have no such reservation. He impressed me as an open ~~witness~~ and independent witness who was a reluctant party to a conversation which, as between Iro and the accused, took an unexpected and criminal turn to which he himself was no party.

The facts I find to be as follows:

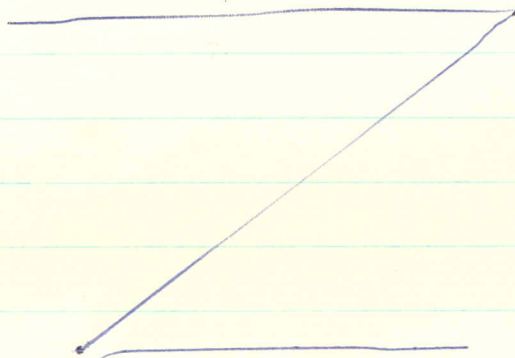
On the night of the 24th/25 February, 1966 at Gizo the District Commissioner ~~at~~ some time uncertain in the evening of the 24th visited the house of Mr Knuckey, a fellow Government servant, and in his absence paid ~~minor~~ ^{certain} courtesies to ~~Mr~~ his wife Mrs Brenda Knuckey ~~in her husband's absence, in a manner which appeared to her cookboy, observing them, to be indiscreet.~~ The cookboy thereupon went across to the house where the cookboys ~~of~~ lived and reported the matter to those present. It happened that only John Kali and the accused were present at the time and to ~~him~~ he related what he had seen. To satisfy curiosity John Kali went over to the house and himself looked through the sitting room window and returned to the accused and also reported what he had seen. The accused and Kali, not unnaturally, discussed the matter and during their conversation on the subject, the cookboy of Mrs Knuckey having left the quarters in the meantime, Michael Iro arrived and joined in the talk. John Kali states, and I believe him, that the accused said words to the effect "it is not good enough for the D.C. to go with Mrs Knuckey. She is a married woman". Then he went on to say "we natives must follow what the D.C. does". The implication in the circumstances was obvious. Michael Iro says, though John Kali does not speak as to this, that the accused then said to him in effect "if you are a good Malaita man you will "creep" Mrs Knuckey". By the word "creep", which is a word in common use in this locality, the accused meant that Iro should seek sexual intercourse with Mrs Knuckey, if necessary by force. In other words he "dared" Iro, as a Malaita ^{with} to try to obtain sexual intercourse with Mrs Knuckey. ~~The~~ ~~xxx~~ Iro, ~~thus~~ "dared" said that he would go but he did not know how to enter the house. Here there is a ^{major} discrepancy between the evidence of John Kali and Michael Iro. Iro says that the accused and himself then went over to Mrs Knuckey's house and carried out a preliminary reconnaissance at which the accused showed Iro how he could enter the house by way of a broken louver pane beside the back door through which a hand could be inserted and the lock released. He also says that the accused showed him where the main switch of the house

was situated. However, on the other hand, John Kali says that ^{such} a visit did not take place but that the accused ^{described} to ~~xx~~ Michael Iro how he could get into the house by way of that louver. I will accept the evidence of John Kali as to this. It makes little difference, for to describe the way into a house is just as much an assistance as actually to show on the spot how entry may be effected. Eventually, after this conversation Michael Iro was about to set out for the house with intent to force entry and to "creep" Mrs Knuckey, when the accused, and here ~~xx~~ both Iro and John Kali are in agreement in their evidence, took a sheath knife from his belt and gave it to Iro. Iro asked what it was for and the accused replied saying that, if Mrs Knuckey resisted him, he should threaten her into submission with the knife. Iro took the knife, put it on his own belt, and away he went. He entered the house by the way described to him by the accused, who knew the house, and therein he attempted to have his way with Mrs Knuckey, but he failed. In respect of that part of the ~~xxxxxx~~ nights doings Iro is now serving sentence. After his attempt Iro did not return to the servants quarters but ran away and spent the rest of the night on board a ship lying alongside the wharf ⁱⁿ ~~of~~ Gizo. Mrs Knuckey, he said, had cried out and it was obviously risky for him to return to the scene.

The accused elected ^{only} to make a statement from his place, but throughout the case he made it clear that he denied that it was he who first suggested the "creeping". I do not believe him. Both Kali and Iro are against him as to this. Secondly he says that he did not volunteer the loan of the knife to Iro, he does not deny ^{that} the knife was his, (or at least his borrowed property from the witness Fulimae Gua) but he says that Iro asked him for it and ^{he} acceded to the request. I do not believe this either. John Kali supports Iro over this. In any event it would make little difference to the result of this case which way it was, for the accused knew full well the purpose for which the knife was required and to accede to a request for it ^{was} ~~was~~ as much an aiding and abetting as to have himself volunteered the loan, as I find he did.

Upon the above evidence therefore I find the accused guilty on both counts of the information, and convict him accordingly.

Paulyn Bodilly.



12th August 1966 at 0900.

Prosecutor and accused present as before.

Judgement delivered.

Isulyn Botilly.

Mitigation:

Accused: I have nothing to say.

I call no witnesses to character.

Prosecutor:

The accused has no pcs. He is 21. He has had 2 years education in a village school and reached standard 5. On leaving school he was employed by the Survey Dept at Gizo and also worked for the Lands Dept. His parents are both alive and live at Ranikuva. They are in good health and own gardens and some coconuts for copra export. At present the accused is unemployed. He is unmarried. He has been on bail since charging.

Sentence: One year imprisonment on each count.
Sentences to run concurrently.

Isulyn Botilly.

12. 8. 66.

Accused informed of his right of appeal.

Is.