

Republic v. Doguape [Criminal Appeal 5 of 2021]

The Director of Public Prosecutions had filed an appeal before the Nauru Court of Appeal on the acquittal by the Supreme Court in *R v. Doguape*. The brief facts relate to the intoxicated Respondent who entered the dwelling of another person without lawful authority or excuse. The Supreme Court acquitted the Respondent after considering the defence of intoxication under Section 43 of the *Crimes Act 2016* and held that the Respondent actions were neither intentional nor voluntary.

The Court of Appeal distinguished between offences that necessitate '**basic intent**' and those that require '**specific intent**' during its consideration of the appeal. The Court of Appeal held that the offence of '*being found in certain places without lawful authority or excuse*', as per Section 164 of the *Crimes Act 2016*, constitutes an offence of basic intent. The Court noted that this is where the mental element of the offence does not go beyond the physical element of the offence, contrary to an offence of '*wounding with intent to cause grievous bodily harm*' where specific intent needs to be proven.

The Court of Appeal overturned the decision of the Supreme Court and convicted the Respondent.