

NGIRABILUK, Appellant
v.
TRUST TERRITORY OF THE PACIFIC ISLANDS, Appellee
Criminal Case No. 54
Trial Division of the High Court
Palau District
July 30, 1954

Defendant was convicted in Palau District Court of violating T.T.C., Sec. 812(i), requiring operator to have license in his possession at all times when driving motor vehicle. On appeal, defendant contends that having license in his possession is sufficient although license on its face was limited to driving of jeeps whereas defendant was driving weapons carrier. The Trial Division of the High Court, Associate Justice James R. Nichols, held that issuing agency cannot classify operators' licenses without legislative authority, and that any issued license is sufficient to comply with Sec. 812, regardless of attempted limitation thereon.

Reversed.

I. Motor Vehicles—Operator's License

If issuing authority has power to classify licenses and driver does not hold valid license for operating weapons carrier and is driving such vehicle, he has violated Trust Territory law requiring drivers to

be licensed, not Trust Territory law requiring operator to have license in his possession while driving motor vehicle. (T.T.C., Secs. 812(a) and (i))

2. Motor Vehicles—Operator's License

Requirement of licenses is function of legislative branch of government and not of executive branch.

3. Police Power—Licensing

In exercise of its police power to require licenses government may make any reasonable classification which it deems necessary to police purpose intended by legislature.

4. Motor Vehicles—Operator's License

In absence of legislative authorization, any attempt on part of issuing agency to classify operators' licenses is without legal effect.

5. Motor Vehicles—Operator's License

Any operator's license issued under Trust Territory law is sufficient for purposes of that section, regardless of any attempted limitation contained in license. (T.T.C., Sec. 812(a))

<i>Assessor:</i>	JOSEPH TELLEI
<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 Trial Court found the appellant guilty of a violation of Section 812(i) of the Trust Territory Code which states "Every person licensed as an operator shall have such license in his immediate possession at all times when driving a motor vehicle." The court assessed a fine of Four Dollars (\$4.00) which was paid within the period set by the court.

At the hearing on appeal it was agreed by both counsel that the appellant had an unexpired license in his immediate possession at the time the citation was issued. The appellant admitted that the license he carried purported on its face to be limited to the driving of jeeps,

whereas he was driving a weapons carrier at the time the citation was issued.

The appellant in his argument advanced two grounds for appeal:—

1. Since he had a license in his immediate possession, he was improperly found guilty of a violation of Section 812(i) of the Trust Territory Code, and that the only charge which could have properly been placed against him was that of violating Section 812(a) which states in part: "No person except those expressly exempted herein shall drive any motor vehicle upon a highway in the Trust Territory unless such person has been licensed as an operator under this chapter."

2. In view of the fact that the Trust Territory Code nowhere classifies or authorizes classification of Operators' Licenses, appellant had a license which entitled him to drive a weapons carrier in his immediate possession at the time the citation was issued.

The appellee argued that, since the appellant's license was limited to the operation of jeeps, he did not have a proper license in his possession at the time the citation was issued, and was therefore guilty of a violation of Section 812(i) of the Trust Territory Code.

CONCLUSIONS OF LAW

[1] It is the opinion of the court that, if the issuing authority did have the authority to classify licenses, the appellant did not hold a valid license to operate a weapons carrier and that, as he contends, he should have been accused of a violation of Section 812(a) of the Trust Territory Code rather than with a violation of Section 812(i), as was done.

[2, 3] It is a clear principle of law that the requirement of licenses is a function of the legislative branch of government, and not of the executive branch. It is

established that in the exercise of its police power to require licenses, a government may make any reasonable classification which it deems necessary to the police purpose intended to be attained by the legislature.

[4, 5] The court further holds that, in the absence of legislative authorization, any attempt on the part of the issuing agency to classify Operators' Licenses is without legal effect and that any license issued under Section 812 is sufficient for the purposes of that section, regardless of any attempted limitation contained in the license.

JUDGMENT

The facts as stipulated do not constitute a violation of Section 812(i) of the Trust Territory Code. The judgment of the District Court for the Palau District in Criminal Case No. 119 is therefore reversed and it is ordered that the \$4.00 fine be refunded to the appellant.