

IN THE FIJI COURT OF APPEAL

Criminal Jurisdiction

Criminal Appeal No. 43 of 1984

Between:

TIMOCI RASIGA

Appellant

- and -

REGINAM

Respondent

Appellant in person

Mr. E. Leong for the Respondent

Date of Hearing: 1st November, 1984Delivery of Judgment: 1st November, 1984JUDGMENT OF THE COURT

Mishra, J.A. (Orally)

The appellant was convicted of Manslaughter contrary to section 198 of the Penal Code and Committing an Unnatural Offence contrary to section 175(a) of that Code. He was sentenced to 7 years' imprisonment on the first count and 5 years' imprisonment on the second, to be served concurrently.

He appeals against his sentences.

According to the evidence before the court, the appellant, with one Peceli Ravono who was also convicted at the same trial, went to the Salvation Army Hostel at Raiwaga on the night of 2nd September, 1983, to find a place to sleep. In a room on the first floor they found

the deceased. Their presence woke him up and a struggle ensued during which the appellant and his companion inflicted serious injuries on the deceased and one, or both, committed sedomy upon him. To escape further torture the deceased jumped out of the window to the ground below. His dead body was found the next day.

Peceli Ravono, a younger man who had played a comparatively minor part in the affair was sentenced to 5 years' imprisonment. He has not appealed.

At the time of his conviction for this offence the appellant was serving a sentence for two years imprisonment for house-breaking and larceny and his main ground is that the totality of the two sentences i.e. 9 years is excessive.

We are unable to agree.

He is 26 years of age and has a bad record. The Learned Chief Justice, in our opinion, took a correct view of the offences when he described them as "callous and brutal" calling for a stiff penalty. We find no reason for interfering with the concurrent sentences of 7 and 5 years' imprisonment imposed by him.

The appeal is dismissed.

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Judge of Appeal

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Judge of Appeal

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Judge of Appeal