

IN THE FIJI COURT OF APPEAL
Criminal Appeal No. 35 of 1987

Between:

ATUNAIISA TAGIVAVA

Appellant

- and -

R E G I N A M

Respondent

Appellant in person.
R. Chand for the Respondent.

Date of Hearing: 18th September, 1987

Delivery of Judgment: 24th September, 1987

JUDGMENT OF THE COURT

Speight, V.P.

Appellant was convicted in the Supreme Court at Suva on three charges of robbery with violence. The offences all occurred on the evening of 8th September 1985 when in a drunken state he approached the various complainants, assaulted them and took various valuables from them.

He was not apprehended until 1987 when he was brought to trial. He had in the intervening two years returned to the village of his defacto wife and has apparently lived in a law abiding fashion there.

He has put in a written submission, saying that he is a reformed person having seen the error of his earlier ways in the city, and claims that he intends to lead a new life away from temptation. He would not be the first appellant to make such a claim.

However he has also filed a confirmatory letter from no less a person than the Roko Tui Tailevu, who quotes reliable people in his village who support the claim of reformation. We have too a plea from the minister who has been visiting him in prison who believes the change in his ways is genuine.

Now it has been often said that crimes of violence must be firmly dealt with, and the learned sentencing Judge recognised this - the sentences of 4 years passed by him would in ordinary circumstances be regarded as very proper especially for a man with previous convictions.

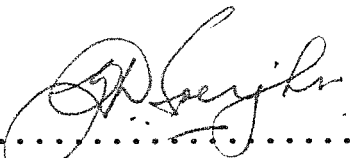
But things have happened since then which the Judge could not know about. The evidence that he lead a good life for a long time in the village is very persuasive and it is a very relevant circumstance that he has had to be taken from that surrounding to answer for one night of drunken crime so long ago.

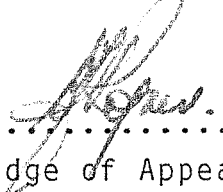
It must be remembered that courts are courts of mercy as well as of justice. The need to punish offenders, especially unrepentant offenders is recognised, but Judges must not overlook the need to help people reform if that appears a reasonable likelihood. For this man to serve another three years in prison may undo the good he and his villagers have done and turn him full time to a life of degradation, and will impose hardship on his new family.

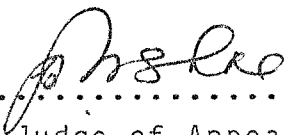
In all the circumstances we think it is justifiable to reduce what was otherwise a proper sentence. The appeal is allowed in part and the sentences imposed are quashed and we substitute a period of 12 months imprisonment concurrent on

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each charge, commencing as from 6th March 1987. Let him stand up in the eyes of his villagers and show he is worthy of their trust.


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Vice-President


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Judge of Appeal


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Judge of Appeal