

SUPREME COURT

JEREMAIA VAKACEGU

A

v.

REGINAM

B

[SUPREME COURT—Suva, Tuivaga, J.—10 October, 1980]

Appellate Jurisdiction

Criminal Law—Practice—Procedure—Prisons Ordinance S. 67(2)(a)—release—breach of order—revoke—return to prison

C

Appellant—In person

A. Gates for Respondent

D

Appellant raised certain questions relating to the proper application of the Compulsory Supervision Order under Part XIV of the Prisons Ordinance.

Held: The Compulsory Supervision Order was correctly applied to the appellant under the provisions of the Prisons Ordinance S. 67(2)(a).

E

The Judge expressed the view that it was doubtful whether the court had power to deal with the appeal at all. The appellate powers of the court derived from the Criminal Procedure Code which does not deal with administrative matters such as this.

Appeal dismissed.

Judgment

F

TUIVAGA, J.

This is an appeal out of time in which the appellant has raised several questions relating to the proper application of the Compulsory Supervision Order under Part XIV of the Prisons Ordinance.

G

The appellant complains that the imposition upon him of a Compulsory Supervision Order when he was released from prison after he had earned a one-third remission on his sentence was wrong. Briefly the circumstances of this case were these:

H

In 1977 appellant was convicted of attempted rape and sentenced to three years' imprisonment. After he had served two years and had earned one-third remission on the sentence appellant was released by the prisons supervisor under a Compulsory Supervision Order for one year in accordance with the provisions of section 67(2)(a) of the Prisons Ordinance.

The appellant broke the terms of the Order when he failed to report regularly once a month at the Central Police Station in Suva. As a result the prisons supervisor revoked the Compulsory Supervision Order whereupon the appellant was arrested under warrant and brought before the Suva Magistrate's Court. The Court as required under the provisions of the Ordinance sent appellant back to prison to serve the unexpired part of his sentence of three years namely, the remission component of it.

A

B

Appellant's argument is that as he had earned on his own merit one-third remission of his sentence it was wrong for him to be sent back to prison to serve it and equally it was wrong in the first place that his release from prison should be encumbered with a Compulsory Supervision Order.

I have carefully considered all the circumstances of this case. I am satisfied that the Compulsory Supervision Order was properly applied to appellant under the provisions of section 67(2)(a) of the Prisons Ordinance. Under these provisions such an Order must be made in this case because the appellant has served imprisonment terms on two previous occasions and the fact of his having earned the full one-third remission of his then current sentence was not relevant in any way.

C

There is a further point. It is doubtful whether this Court has jurisdiction to deal with this appeal at all. The appellate powers of this Court derive from the Criminal Procedure Code which do not deal with administrative matters such as the issue and administration of a Compulsory Supervision Order under Part XIV of the Prisons Ordinance.

D

In the result this appeal must be dismissed.

Appeal dismissed.