

IN THE SUPREME COURT OF FIJI
Appellate Jurisdiction
Criminal Appeal No. 87 of 1980

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Between:

PITA NOEL SAVIRIO

and

REGINAM

Appellant in Person
Mr. M. Raza for Respondent

JUDGMENT

On 10th July 1980 appellant was on his own plea convicted on three counts firstly, of larceny in a dwelling house and was sentenced to six months' imprisonment, secondly of larceny and was sentenced to six months' imprisonment and thirdly of larceny and was sentenced to six months' imprisonment to be served concurrently. The sum involved in the first count was \$10, \$8 in the second count and also \$8 in the third count.

The facts admitted were that the three complainants who were members of the New Zealand Army were attending a course in Fiji. They were given the Transit Sergeants Barracks for their residence. In the early morning of 9th July 1980 at about 1.30 a.m. the three complainants had returned to their barracks and left their cash on top of the bedside lockers. At about 2 a.m. appellant was seen by the army officers on guard duty entering the barrack. They were suspicious and followed appellant. He was found inside the barracks counting money. He was arrested and taken to guardroom where he was found to be in possession of \$20.40 cents and \$2 in New Zealand currency. Appellant was arrested and charged by the police and as stated earlier convicted.

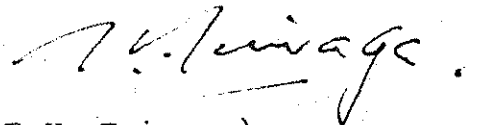
In mitigation appellant said he was very drunk at the time and had just wandered into the premises in question.

It is quite clear that these offences would not have been committed if the appellant had not been so heavily under the influence of drink that night. He is a first offender aged twenty one and as can be seen the amounts involved were really small.

Appellant had served with the army in Lebanon without any adverse report. He has expressed the wish to go back again and would like another chance to do so. I am satisfied that the appellant acted uncharacteristically that night. I am told that the money had been returned to the respective owners.

Appellant who is young and first offender has already served two and a half months in prison and I am satisfied that he has been punished enough for his wrong-doings.

Accordingly I allow the appeal and quash the sentences of six months' imprisonment imposed on each count and pass such sentences as would allow him to be released from prison today.



(T.U. Tuivaga)
Chief Justice

Suva,
3rd October 1980.