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IN THE SUPREME COURT OF FIJI  
Appellate Jurisdiction  
Criminal Appeal No. 69 of 1980

000195

Between:

KELEPI QIO

and

REGINAM

Mr. A. Singh for the Appellant

Mr. S. Chandra for the Respondent

JUDGMENT

On the 14th May 1980 the appellant was on his own plea convicted in the Suva Magistrate's Court on two counts, firstly of driving a motor vehicle whilst under the influence of drinks and was sentenced to a fine of \$150 or four months' imprisonment and disqualified from holding or obtaining a driving licence for a period of eighteen months and secondly of dangerous driving and was sentenced to a fine of \$75 or two months' imprisonment and was disqualified from holding or obtaining a driving licence for a period of six months.

The appellant appeals against the fines imposed as aforesaid on the ground that they are harsh and excessive.

The facts show that on 6th April 1980 at about 11 p.m. the appellant was seen driving a taxi Reg. No. AR123 from Marks Street up along Toorak Road in a zig-zag manner. His driving was observed by a Mobile Patrol Officer who followed him as far as Eden Street where the appellant was stopped and questioned. The appellant was unsteady on his feet and smelled strongly of liquor. He was examined later that night at the C.W.M. Hospital by a doctor who declared him unfit to drive. The appellant's blood alcohol level was high.

The appellant is forty eight years of age and was employed as a taxi driver. He has a number of previous convictions, many

of them for being drunk and disorderly or incapable. One as recent as 1978 was for driving whilst under the influence of drinks. Appellant does not appear to have learned much from his previous wrong-doings and at his advancing age he should think seriously of doing something about the matter as this would be in his best interest as well as of his family.


Appellant is a veteran of the Malayan Campaign where for two years he had fought against communists. This is a personal credit to him. However, by the same token appellant owes it to his country to set an example at law-abiding.

I accept that the loss of his driving licence was a severe setback to the appellant who used to rely mainly on his income from driving for his subsistence. In my view the imposition of heavy fines on top of the order of disqualification and on a person of small means is somewhat harsh.

Another factor I feel should be taken into account is that at the time of the offence the roads had almost certainly been devoid of traffic. This probably accounted for the absence of any accident occurring that night despite the erratic manner in which appellant was driving.

I am satisfied that an adjustment to the fines would in the circumstances of this case be perfectly justified.

Accordingly the fines imposed in the Court below are set aside and in lieu thereof I substitute a fine of \$50 or three weeks' imprisonment on the first count and a fine of \$30 or two weeks' imprisonment on the second count.

  
(T.U. Tuivaga)  
Chief Justice

Suva,

31st October 1980.