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IN THE SUPREME COURT OF FIJI
Appellate Jurisdiction
Criminal Appeal No. 110 of 1980

000212

Between:

1. ALIVERETI YAYA
2. NEMANI BALE

and

REGINAM

Appellants in person.
Mr. R. Lindsay for the Respondent.
JUDGMENT

On 20th October 1980 the appellants were on their own pleas convicted in the Suva Magistrates Court of assault occasioning actual bodily harm contrary to section 277 of the Penal Code and were each sentenced to three months' imprisonment.

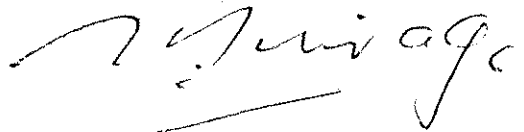
After they were sentenced the appellants gave notice of appeal and applied for bail which was granted. The prison sentence was thereby suspended pending the result of this appeal.

The facts of this case were these. The appellants, both senior students at U.S.P., attended a dance at Peninsula Hotel on the evening of Friday 3rd October 1980. They had some drinks while they were there. At about 12.30 a.m. both appellants got into an argument with the complainant and as a result complainant was assaulted by both appellants. Complainant suffered injuries to his face and lips which fortunately were not serious. Appellants are both twenty one and first offenders. The Court was told that they have been accepted for Government employment commencing early next year and that their career prospects would be seriously jeopardised if they were to go to gaol. They told the Court they were very sorry for what they had done. They complained that the sentence given by the Court was harsh and excessive.

Counsel for the respondent conceded that a non-custodial sentence would appear to be more appropriate in this case having regard to all the circumstances.

I am satisfied that the ends of justice would be sufficiently met by the imposition of a fine upon each of them.

Accordingly I set aside the sentence passed in the Court below and in lieu thereof each appellant is sentenced to a fine of \$30 or two months' imprisonment. I will allow twenty eight days for them to pay the fine.



(T.U. Tuivaga)
Chief Justice

Suva,
5th December, 1980.