IN THE SUPREME COURT OF FIJI
Appellate Jurisdiction
Criminal Appeal No. 91 of 1980

000096

Between:

TAITUSI KULABO Appellant

and

REGINAM Respondent

Appellant in Person.
Mr. A. Gates for the Respondent.

JUDGMENT

On the 9th July 1980 in the Suva Magistrate's Court the appellant was after trial convicted of robbery with violence and sentenced to 2 years' imprisonment.

This appeal is against the alleged severity of sentence.

The facts are that on 27th June 1980 one Mahesh Prasad, a Sheriff's Officer (PW1) went to the Metropole Hotel to see a friend who had promised to buy some fish for him. PW1 met his friend in the lounge bar upstairs. When PW1 left the lounge bar and was descending the stairs four youths followed and jostled him. At the foot of the stairs the appellant punched PW1 in the face causing a cut to his lip. The others punched appellant in the stomach and on the jaw which caused him to fall on the floor. The youths then fled from the hotel with PW1's brief case. The appellant returned to the hotel a little later and it was there that PW1 accompanied by a police constable saw appellant and identified him as his assailant. Thereupon appellant was taken into custody and

charged. The brief case and other items taken were valued at $45.

The appellant was 18 years of age at the time of the offence. This was his first offence.

The offence committed by the appellant clearly merited a custodial sentence and ordinarily a sentence of 2 years' imprisonment would have been quite appropriate. However the appellant's age and his hitherto clean record were matters of mitigation which should be given due weight in assessing the quantum of sentence. The value of property stolen was relatively small. Another relevant consideration is that PW1 did not fortunately suffer serious injuries. In these circumstances I am satisfied that the sentence imposed in the court below on appellant was higher than it need be.

Accordingly the sentence of 2 years' imprisonment imposed on the appellant would be varied to one of 15 months' imprisonment.

Chief Justice

SUVA,
16th January, 1981.