

IN THE SUPREME COURT OF FIJI
Appellate Jurisdiction
Criminal Appeal No. 33 of 1982

232

000358

Between:

SEKOVE TAWAKELEVU

and

REGINAM

Appellant in Person

Mr. J. Subhrawal for Respondent

JUDGMENT

On 16th February 1982 at the Suva Magistrate's Court appellant was on his own plea convicted on five counts of the following offences: escaping from lawful custody (Count 1), burglary and stealing property to the value of \$92 (Count 2), larceny of a sum of \$98 (Count 3), larceny in dwelling house of property valued at \$90 (Count 4) and obtaining money by false pretences in the sum of \$40 (Count 5). Appellant was given a total effective sentence of three years' imprisonment.

Appellant is appealing against his sentence on the ground that it is harsh and excessive having regard to the length of the prison term which he is currently serving.

The facts show that the appellant had escaped from lawful custody on 19th December 1981 and remained at large until 13th February 1982 when he was recaptured. In the period between appellant committed the offences referred to in Counts 2, 3, 4 and 5.

Appellant has 33 previous convictions of which 4 were for escaping from lawful custody.

In the ordinary way this appeal would have been summarily dismissed as being wholly without merit having

regard to his criminal record and the nature of the offences committed.

However, the Court is told that the appellant is currently serving an existing term of imprisonment for previous offences and that his release date thereof is 2nd August 1987 which is a little over five years from now. This is a matter which I think this Court should take into account as being relevant to the assessment of the quantum of sentence for his subsequent offences. This is done in an attempt to avoid keeping him under incarceration for longer than necessary. It is a well known fact that unduly lengthy periods of incarceration do not often serve the best interests of the community nor those of the inmates themselves.

It is with this consideration in mind I feel this appeal should be allowed. Accordingly I set aside the sentences imposed upon appellant in the court below and in lieu thereof substitute the following -

Count 1 - 9 months' imprisonment
Count 2 - 12 months' imprisonment
Count 3 - 12 months' imprisonment
Count 4 - 12 months' imprisonment
Count 5 - 12 months' imprisonment

These sentences are to run concurrently but to be consecutive to his present term.

(T.U. Tuivaga)
Chief Justice

Suva,
11th June, 1982.