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IN THE SUPREME COURT OF FIJI

Appellate Jurisdiction

Criminal Appeal No.66 of 1983

Between:

TIMOCI CAMA

Appellant

and

REGINAM

Respondent

Appellant in Person
Mr. D. Thorley for the Crown

J U D G M E N T

On 5th April, 1983 the appellant was convicted and sentenced on eight counts including one of escaping from lawful custody, two of burglary, one of larceny and the remainder for house-breaking. He had numerous previous convictions for similar offences and the effect of the Magistrate's sentence was to add a substantive 2 years and 9 months' imprisonment to the sentences which the appellant was then presently serving.

In his Notice of Appeal the appellant complained that the totality of his sentences now exceeds 12 years.

Taking into account that the appellant was born on 17th January, 1964, I considered it desirable to review his situation generally in addition to dealing with the appeal and to exercise where appropriate, revisional jurisdiction in respect of all the recent

cases in which the appellant has been sentenced to terms of imprisonment which have not yet expired. I am indebted to Mr. David Thorley who appeared for the Crown for presenting to the Court a full picture of the appellant's situation and in arranging for him to be subjected (with his consent) to certain medical, psychiatric and psychological examinations. I have also had the benefit of a Social Welfare report.

All this revealed a very sorry picture indeed. The appellant's family hail from Vanuabalavu in Lau and are settled at Deuba. His father has had various jobs, the last being as a watchman employed by the Hurricane Relief organisation. His mother is a market vendor in Navua. The appellant has one brother and two sisters and the brother also has a criminal record. His father is presently unemployed due to ill-health and the Social Enquiry Report shows that the appellant comes from a respectable but, poor family. There is nothing to account for his lapse into crime which commenced with a conviction in the Magistrate's Court at Navua on a charge of shopbreaking on the 12th September, 1979.

Since that time, the appellant's life style has been one of theft, house-breaking, imprisonment and frequent escapes from custody for which he has been punished by the courts. The result is that his total sentences now amount to no less than 17 years and 7 months. That a young man of 20 years should suffer such a severe punishment cannot be accepted, even though the hard fact remains that he has become a menace to society.

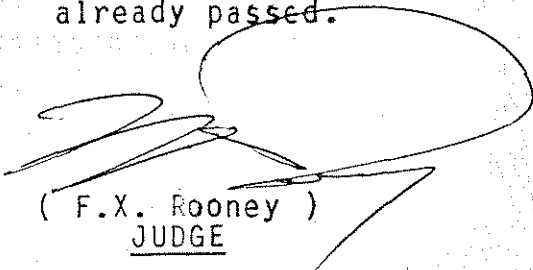
As far as it can be ascertained, the appellant is not mentally abnormal, but, he suffers from an immature personality which makes it difficult for him to resist the temptation of joining other more purposeful and wicked persons in criminal activities. In only one case was the appellant involved in a crime involving violence to the person. He and another man held up a taxi driver at

knife point and robbed him of money. It is not possible to say which of the two actually held the knife and I will assume in the appellant's favour that he was present at the commission of this crime as an aider and abettor only.

It appears to me that the various magistrates before whom the appellant has appeared during the past 2 years have passed appropriate sentences, but, some of them have overlooked the cumulative effect of the sentences which may not have been apparent to them at the time. I therefore propose to make orders on review in a number of cases which I am advised will result in the reduction of the total sentences to be served by the appellant to about 11 years. Of course, if the appellant continues to escape and commit new crimes he cannot expect further leniency. The time he has to spend in prison will be prolonged if, as a result of indiscipline, he loses remission of sentences. He has already lost some remission and it is not my intention to interfere with these punishments. Accordingly I make the following orders :

- Suva Criminal 27/82 - Sentence reduced to 2 years' imprisonment concurrent with all other sentences.
- Suva Criminal 1684/82 - Sentences to run concurrently with all other sentences.
- Suva Criminal 1673/82 - Ditto
- Suva Criminal 1679/82 - Ditto
- Suva Criminal 468/83 - Ditto
- Suva Criminal 2050/83 - Reduced to 1 year's imprisonment consecutive to sentences already passed.

Suva,
7th May, 1984


(F.X. Rooney)
JUDGE