

GECEO -v- REGINAM

High Court of Solomon Islands

(Ward C.J.)

Criminal Case No. 2 of 1991

Hearing: 31 January 1991

Judgment: 31 January 1991

Appellant in person

J. Wasiraro for the Respondent

WARD CJ: This is an appeal against sentences of three years imprisonment for two offences of larceny by servant and an additional year for breach of a conditional discharge ordered for a similar offence. The ground is that the appellant's family will suffer from his imprisonment. He points out that he supports three brothers and pays for their education. They are at Solomon Islands College of Higher Education, King George VI School and Honiara Secondary School.

I have pointed out many times that the responsibility for his family and the effect a sentence will have on them is a matter for the man who decides to offend and not the courts. It is only in the most exceptional case that the court can consider such matters. This is not such a case.

Even if it had been I cannot see how it could affect the sentence here. The offence clearly merited an immediate sentence of imprisonment. The effect on the brothers' schooling will, if it occurs at all, occur now. A reduction of the sentence by, say, a year will still mean that by the time of his release, the harm will be done.

In many cases of larceny by a servant, the court is able to reduce the sentence because the offender is almost certainly never going to offend again and yet will lose his job and probably never have such work again. The Chief Magistrate did not feel that applied in this case because the appellant was convicted in February of a similar offence involving \$500 from the same employer. Not only did he receive the unusually lenient sentence of a conditional discharge for 12 months but he retained his job. At that time one might have felt he would realise he had been very lucky. However, far from that, the facts show that within a few weeks he was beginning this series of offence involving considerably larger sums of money - a series, as the learned Chief Magistrate said, of flagrant and sustained breaches of trust.

I do not feel this sentence can in any way be said to be excessive and the appeal is dismissed.

(F. G. R. Ward)
CHIEF JUSTICE