

Paea v Police

Supreme Court, Neiafu

Dalgety J

10 Appeal 336/94

19 April 1994

Prisoners - work - remand prisoners - duties

On a bail appeal the Court became aware that a remand prisoner had been required to undertake work along with convicted criminals

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Said, in comment and, therefore, obiter:

1. Remand prisoners may be employed in any work or labour only if they voluntarily consent to such.
2. Remand prisoners must not be compelled, persuaded or otherwise inveigled into performing duties from which they are exempt.

30 Rules referred to

Prison Rules 1947, r.119

Counsel for Appellant : Mr Piukala

Counsel for Respondent : Mr Niu

Judgment

This is a Bail Appeal against a decision of Magistrate Pifeleti dated 24th March 1994 remanding the appellant in custody pending his trial in the Supreme Court on two charges, namely (a) indecent assault and (b) unlawful entry by night (see Criminal Case, Number 331/94). Such appeals require to be disposed of expeditiously.

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Having considered the papers Mr Niu with the consent and concurrence of the Police Prosecutor, withdrew objections to Bail. I am satisfied on the available information this was the correct decision to take and shall release the appellant on bail pending Trial. If at all possible his Trial should be heard during the next Vava'u circuit.

There is one further matter that merits comment. During his period in custody the Appellant was required to undertake work along with convicted criminals. That is wholly inappropriate. I fully accept that the geography of Ha'alefo Prison, Vava'u prevents him

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from being segregated from convicted criminals, yet nevertheless he is only a remand prisoner and must be treated accordingly. Under and in terms of the Prison Rules 1947 remand prisoners may be employed in "any work or labour that can be conveniently performed in the prison" only "if they consent". That consent must be voluntary: Rule 119. Unless a remand prisoner himself volunteers to perform such work or labour, he cannot and MUST NOT be compelled, persuaded or otherwise inveigled into performing duties from which he is exempt. Rule 119 seems to have been overlooked in the case of the Appellant, a regrettable oversight which I trust is not repeated in any of the prisons within the Kingdom. I shall direct that a copy of this Judgment is made available of the Minister of Police so that administratively he might ensure that the provisions of Rules 117 - 119 are brought home to prison officers under his control.

Accordingly I shall pronounce an ORDER in the following terms:

IT IS ORDERED AND ADJUDGED THAT (1) This Bail Appeal be allowed; (2) a copy of this Judgment be delivered to the Minister of Police; and (3) the Appellant be released on Bail forthwith he having agreed to perform the afternoted Bail conditions namely:

- (a) to attend all sessions of the Supreme Court at Neiafu in respect of Case Number 331/94,
- (b) not to leave Vava'u until the completion of the trial in said case,
- (c) to report to the Police Station at Neiafu every Saturday between the hours of 0900 and 1200, and
- (d) to comply with the requirements of Section 5 (iii) of the Bail Act 1990 (cap. 27).