

IN THE FIJI COURT OF APPEAL

CRIMINAL JURISDICTION

CRIMINAL APPEAL NO. 10 OF 1992

(High Court Criminal Case No. 17 of 1991)

BETWEEN:

SEREMAIA TUIKADAVU

APPELLANT

-and-

S T A T E

RESPONDENT

A N D:

CRIMINAL APPEAL NO. 11 OF 1992

(High Court Criminal Case No. 17 of 1991)

BETWEEN:

SIMIONE RAURA

APPELLANT

-and-

S T A T E

RESPONDENT

Both Appellants in Person
Mr. Ian Wikramanayake for the Respondent

Date of Hearing : 26th April, 1993

Date of Delivery of Judgment : 26th April, 1993

JUDGMENT OF THE COURT

These two appellants, together with a third man, were convicted on 5 November 1992 on a joint charge of robbery with violence. Each was sentenced to imprisonment for 2 1/2 years. The first appellant, Seremaia Tuikadavu, appeals against his conviction and has informally expressed objection to his

sentence. The second appellant, Simone Raura, appeals against his sentence.

The offence had involved three men entering a shop. One went behind the counter and punched the shopkeeper, a second wielded a knife outside the counter, and the third stood by the door as a watchman. If that was what happened then plainly all three were parties to the offence of robbery with violence. The only question concerned the identification of the three accused.

In his notice of appeal against conviction Tuikadavu claims that there was a miscarriage of justice and that he was never identified as being present. At the trial he sought to challenge his written statement as having been obtained from him by force. That statement had been held by the Judge to be admissible following a trial within a trial. It's acceptance as evidence was then a matter for the Assessors to decide and they were correctly directed by the Judge as to the principles they must apply. The Assessors decided that matter against Tuikadavu, and it must therefore be accepted that he was correctly convicted.

As to the appeal against sentence by Raura, the offence of robbery with violence is a serious one. Those who engage in such conduct must understand that, if they are caught, they will face lengthy sentences. This offence in itself called for a substantial term of imprisonment. In addition it had to be noted that Raura has previous convictions for rape, escaping from

custody and larceny from a dwelling house. So long as he continues to offend he can expect to receive longer and longer sentences. In Tuikadavu's case he has a very long list of previous offending and what we have just said about the other appellant applies here even more strongly.

There is no merit in either of these appeals and each is dismissed.

Michael M. Helsham

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Mr. Justice Michael M. Helsham
President Fiji Court of Appeal

Moti Tikaram

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Sir Moti Tikaram
Resident Judge of Appeal

Peter Quilliam

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Sir Peter Quilliam
Judge of Appeal