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IN THE SUPREME COURT OF FIJI
Appellate Jurisdiction
Criminal Appeal No. 22 of 1980

Between:

ISIRELI ROKOVUCAGO

Appellant

and

REGINAM

Respondent

Appellant in Person

Mr. V. Maharaj for the Respondent

JUDGMENT

On 31st December 1979 the appellant was on his own plea convicted in the Suva Magistrate's Court for escaping from lawful custody in Suva Prisons contrary to section 130 of the Penal Code and was sentenced to twenty one months' imprisonment.

The appellant now appeals against sentence on the ground that it is harsh and excessive.

The appellant has twenty previous convictions including four for escaping from lawful custody.

The appellant complains that this sentence has increased his total incarceration period to six years and nine months. He claims this is unfair in view of the fact that some of his fellow inmates were merely bound over for the same offence despite their repeated escapes.

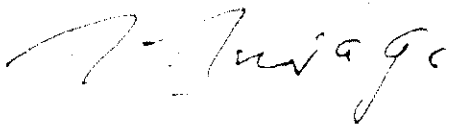
This Court is not familiar with the cases to which the appellant is referring although it is quite possible that such had occurred for special reasons.

Leaving the matter aside for the moment one thing is clear and that is the appellant appears to be a person afflicted with a weakness for escaping from lawful custody and

at the rate he is going he can expect to spend a greater part of his life in gaol. No one can help him to be rid of this mania for escaping except himself and the sooner he realises this the better for him.

Returning to the question of sentences for the offence of escaping from lawful custody I would agree that these should not appear to be so disparate as between cases. I think what the Courts should try to do is to achieve some sort of consistency or uniformity between the sentences imposed for this offence. This is not easy to do if one is continually confronted with this type of case when the Courts may feel it their duty to be severe with the culprits. However, such temptation should be resisted. I believe some semblance of uniformity in the sentences could be achieved if, in passing sentence, the Courts keep within a certain acceptable range. I do not think anything would be lost in the way of deterrence against this offence if this range is fixed between six and twelve months' imprisonment depending, of course, on the particular circumstances of the case. In this way there would not be so much disparity or appearance of disparity in the sentences passed by different Courts. Anything above or below this scale should be regarded as exceptional and can only be justified by its own particular circumstances.

Applying these considerations to the present case I feel I ought to allow the appeal and set aside the sentence of twenty one months' imprisonment passed on the appellant which appears to me to be on the heavy side. I would substitute therefor a sentence of twelve months' imprisonment.


(T.U. Tuivaga)
Chief Justice

Suva,
20th June 1980.