

Between:

INIA KOROWALE

Appellant

and

REGINAM

Respondent

Appellant in Person

Mr. M.I. Khan for Respondent

JUDGMENT

On 5th March 1980 the appellant was on his own plea convicted in the Suva Magistrate's Court for having taken part in a riot at Suva Prisons between 31st December 1979 and 2nd January 1980 contrary to section 81 of the Penal Code and was sentenced to eighteen months' imprisonment.

The appeal is against sentence presumably (although this was not stated as such in the grounds of appeal filed) on the ground that the sentence was harsh and excessive.

The facts of this case were extremely serious in that they showed a course of conduct calculated to undermine the proper administration of the prisons service and the rule of law. The sentence passed on the appellant cannot in these circumstances be regarded as excessive or unreasonable. Moreover the fact that the appellant had several previous convictions, some fairly bad, did not help him very much.

I find that there is no merit in this appeal against sentence.

At the hearing of this appeal the appellant complained again that he had been physically ill-treated by the police and prison warders. In ground (g) of his petition of appeal the appellant referred to the matter as follows:

"That on the 2nd January 1980 when force was used to recapture the prison, I was one of those inmates that was badly bashed and assaulted by police warders. As a result of that I was confined to the Prison hospital because of a fractured arm and head injuries received and that the medical officer at the hospital and the authorities can prove this allegation."

I have made particular reference in this judgment to appellant's complaints of ill-treatment in prison merely to emphasise the fact, as there have recently been many similar complaints from prison inmates, that it is not a proper function of this Court when exercising appellate jurisdiction to investigate and assess these complaints. In any case this Court is not equipped to do so.

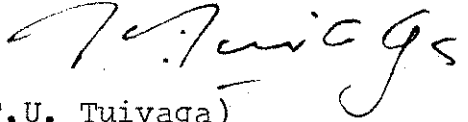
These complainants have their remedies under the law. They may pursue the matter by way of a civil claim for damages for personal injuries. They may report the matter to the Commissioner of Police for possible criminal proceedings to be taken against the culprits. They may apply to the Commission on the Prerogative of Mercy (if such has been established) for remission of sentence on humanitarian grounds in view of the ill-treatment they allegedly suffered.

These are remedies which are available to them and to which they are at liberty to resort.

I hope these observations will help to clear the air for the future with regard to these complaints of ill-treatment in prison. A lot of time and energy has been wasted in these complaints being referred to the Courts. The Courts can do nothing about such complaints other than

re-direct them to the Commissioner of Police for his attention.

The appeal against sentence by this appellant is dismissed.


(T.U. Tuivaga)
Chief Justice

Suva,
20th June 1980.