

Between:

SECI KIRIKITI

Appellant

and

REGINAM

Respondent

Appellant in Person

Mr. Lindsay for the Respondent

JUDGMENT

On 16th September 1980 appellant was convicted on his own plea of robbery with violence by the Suva Magistrate's Court and was sentenced to three years' imprisonment.

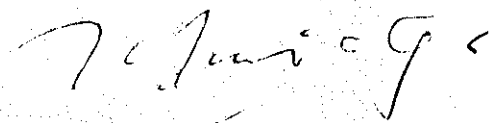
Appellant appeals against his sentence on the ground that it is harsh and excessive.

The facts show that at about 8.20 p.m. on 15th September 1980 at the junction of Marks Street in Suva appellant accosted complainant and asked for the ice cream which complainant had just bought from a nearby shop. When complainant refused appellant punched him causing him to fall on the pavement. He became momentarily unconscious. Appellant grabbed the ice cream cone and complainant's watch and ran away. A search for him was later mounted by the police with assistance of the complainant. At about 2 a.m. appellant was seen by a police officer boarding a taxi. Taxi was stopped and when appellant was searched complainant's watch was found on him.

Appellant is eighteen years of age with no previous conviction of any consequence. It was right therefore that appellant was treated as a first offender by the Court below.

It seems to me that in the present case insufficient credit was given to the age of the appellant and his plea which were strong matters of mitigation. Moreover, it is noted that the wrist watch was recovered and that no serious injuries were sustained by the complainant. In these circumstances this Court is satisfied that the sentence imposed on appellant was unnecessarily long and ought to be varied.

The appeal will therefore be allowed. The sentence of three years' imprisonment imposed on appellant in the Court below is set aside and in lieu thereof a sentence of eighteen months' imprisonment is substituted.



(T.U. Tuivaga)
Chief Justice

Suva,
 6th February 1981.