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HARRY RURAI -v- REGINAM

High Court of Solomon Islands

(Muria J.)

Criminal Case No. 29 of 1991

Hearing: 5 December 1991

Judgment: 6 December 1991

J. Wasiraro for prosecution

Appellant in person

MURIA J: The appellant, Harry Rurai is presently serving a 5 year sentence on a robbery charge imposed by this Court on 28 November 1990. On the 29 September 1991 he escaped from Rove Prison but later he was captured and taken back to prison. He was charged with the offence of escaping from lawful custody. The appellant pleaded guilty and the learned Magistrate sentenced him to one year imprisonment consecutive to his present sentence.

The appellant now appeals against his one year sentence on the escaping charge. He said that one year is too much for the offence. The appellant basically repeated his reasons for escaping which he told the Magistrates' Court. He said he had two problems. Firstly he said he had a tooth-ache which he was complaining about for one week but the prison authorities simply ignored him, and secondly he said he was frustrated for not hearing any response about his appeal against his 5 year sentence.

Mr Wasiraro, however, submitted that the sentence of one year imprisonment imposed on the appellant is proper since the offence is a misdemeanour which attracts a maximum sentence of 2 years imprisonment.

In his reasons for sentence the learned Magistrate said:-

*"Your reasons for escaping - unreasonable. Even if that was your reason for escaping i.e. your requests were not entertained by prison officers, that is not of course a good excuse for escaping. You didn't tell me you had attended at Central Hospital to treat your tooth-ache or seek legal assistance in your appeal. Escape from prison is a serious offence. Escape prisoner is always a threat to the public. This had been experienced in the past".*

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Although the above comments were seemed hard on the appellant, there is very little criticism that can be said against the learned Magistrate for his views. The courts are entitled to take a serious view on escaping from prisons as the risk posed by an escaping prisoner cannot be easily ascertained. That is the aggravating factor in the offence of this nature.

Having said that, I feel the learned Magistrate had placed too much weight on the unreasonableness of the appellant's reasons for escaping as well as his views on this type of offence when assessing the length of sentence to be imposed on this appellant.

This is simply a case of a prisoner escaping from prison because he was frustrated for not being attended to. He did not commit any other offence while on the run. When he was apprehended and brought to Court, he pleaded guilty. Those factors must, no doubt, tell in his favour when assessing the appropriate sentence to be imposed on the appellant.

Sentence on a charge of escaping from prison must as a matter of principle be made consecutive to the prison sentence the prisoner is currently serving. But it is wrong, however, to impose a heavy sentence on a prisoner who while on the run did not commit any other offence.

In the present case, the sentence of one year imprisonment imposed on the appellant is, in the circumstances of this case, excessive. The proper sentence should be one of 3 months imprisonment.

The appeal is allowed. Sentence reduced to 3 months imprisonment consecutive to the appellant's present sentence.

(G.J.B. Muria)

JUDGE