

R v Tokai

Supreme Court, Nuku'alofa
Hampton CJ
Cr 260/96

10 9 April, 1997

Criminal law - sentencing - principles - multiple offences
Sentencing - multiple offences - dealt with separately

The prisoner appeared for sentence on a charge which pre-dated an earlier sentencing.

Held:

1. If the offence had been before the previous sentencing court the same sentence would have resulted.
- 20 2. That matter should guide the present sentencing.

Counsel for prosecution : Mr Malolo
Counsel for defence : Mr Tonga

Judgment

Notwithstanding Ms. Grigg's disappointment and also my disappointment from what I am told by Ms. Grigg, about your performance since the 3rd December last year, I approach the sentencing of you on this charge guided by certain principles which I believe are applicable. The first one of which is that if this offence, which pre-dates your
30 sentencing of 3rd December last year, had been before the sentencing court in December, then I am sure that the same sentence of probation with terms would have been applied to you.

It is not as if this is offending by you committed subsequent to the sentencing of 3rd December. So I am guided by that principle and I do not intend to interfere with the 2 year period of probation imposed on 3rd December 1996. But I tell you this: that if you keep abusing the probation I will expect the probation officer to bring you straight back here, and you to be sentenced on this charge, and the others last year, and you will go to jail.
40 And you will go to jail for a long time, do you understand that?

(The judge then considered matters of detail in relation to the sentences and to compensation.)