

**STATE v ILIKIMI NAITINI (aka George Speight) and Ors**

HIGH COURT — CRIMINAL JURISDICTION

5 SCOTT J

18 February 2002

10 [2002] FJHC 276

**Criminal law — sentencing — transcript of proceedings — convicted of treason by own plea — mandatory death penalty — death by hanging — Constitution Art 115.**

15 Accused was convicted of treason by his own plea and was sentenced to death by hanging by virtue of the mandatory death penalty for the crime of treason.

**Held** — The court sentenced Accused to death by hanging because of the mandatory death penalty for the crime of treason. He was convicted for the crime of treason by his own plea.

20 Sentenced to death by hanging.

**No case cited.**

**Scott J.**

**Mitigation by Mr Cannon**

25 I am very obliged, your Lordship, for the assistance given to me in respect of this very difficult matter, and I also appreciate that this is not a plea of mitigation because with the mandatory death penalty, you have no alternative other than to pronounce the sentence of death. I know to all judges that that is an extremely distasteful task, but you are bound by the law and Mr Speight has informed me  
30 that he appreciates that you must do your duty.

However, in view of the tensions that have existed in Fiji in respect of this particular hearing, Mr Speight also makes it very clear to his supporters that they must not in any effort to show their support of him or their anxiety about his physical welfare in the future, do any act which may be regarded as disorderly  
35 and which would bring the good name of Fiji into a situation where it would be regarded as an unstable country. And I have conveyed that message to his supporters on his behalf and before you pronounce the death sentence, I would like you to be assured that this was his express instructions. The death penalty is an anachronism today and of course public announcements have in fact been  
40 made by the Attorney-General quite properly — not in respect of this particular case, but to delete the death penalty from the penal code so that Fiji will go into the 21st century with no death penalty, and this is in accordance with the beliefs of most other countries that such a punishment is a cruel and unusual punishment. So in respect of this matter, he has no fear, and we have been given every  
45 assurance that the penalty which unfortunately you have to pronounce will not be carried out.

Now, my learned colleagues for the prosecution have given us assistance. Every detail has in fact been explained to Mr George Speight. He has  
50 acknowledged that he was the leader of this group. He is loyal to the members of that group, and dismayed by the plight that his leadership has placed those people in. And he has pleaded guilty at the first available opportunity, so that his

followers would reap the benefits of his plea of guilty to this extremely serious charge, and his repentance that, by his actions, he has disturbed the tranquillity and good name of Fiji.

Now, I appreciate that you have to put in a report. And as my learned friend 5 has indicated to you, in the interests of a tranquil transition, that report would certainly assist us if it were submitted as soon as possible. My learned friend has also mentioned Art 115 of the Constitution of the Republic of Fiji, and the documents to be submitted to the President, and the Members of the Commission are already at the President's office, so that this matter can be quickly disposed 10 of to prevent any further tension.

Now, having said that, I would be wasting your time, and it is emotionally draining, in view of the pronouncement of the death penalty, for me to continue. He just wants everybody to accept that he has pleaded guilty to save the State of Fiji from any further instability. But of course, he does acknowledge that 15 what he did was unlawful, and to attempt to change the Constitution or the government by unlawful means, comes fairly and squarely within the meaning of treason.

Now, with that, sir, I have nothing further to add, and I will allow you, then, to consider your report. The matters which you have to consider are limited, by 20 the very nature of the mandatory death penalty, and when that report is available, then he will ultimately know his fate. Treason has always been a political crime, and the sentence for Treason is best left in the hands of the politicians. It is a Fijian problem which requires a Fijian solution.

### 25 **Sentence by Justice Scott**

Please stand up, George Speight. George Speight, you have been convicted, on your own plea, of treason, the most serious criminal charge against the nation. The events of May 2000 were an unmitigated catastrophe, not only for Fiji, but also for you. By pleading guilty, you have done the right thing and, for all the 30 reasons given by Mr Cannon, I am certain that you will be given credit for the course that you have taken. As pointed out by counsel, I have no option but to pass the sentence upon you which is laid down by law.

George Speight, the sentence of the court upon you is that you be taken from this place to a lawful prison, and thence to a place of execution, and that you there 35 suffer death by hanging. And may the Lord have mercy upon your soul.

*Sentenced to death by hanging.*

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