

Appellate Jurisdiction
Criminal Appeal No. 21 of 1980

Between:

SAMUELA CIVO

Appellant

and

REGINAM

Respondent

The Appellant in Person
Mr. V. Maharaj for the Respondent.

JUDGMENT

On 14th December 1979 the appellant was charged in the Suva Magistrate's Court on the first count with escaping from lawful custody contrary to section 130 of the Penal Code and on the second count with assaulting a police officer in the due execution of his duty contrary to section 279 of the Penal Code.

On the first count the appellant pleaded guilty and was sentenced to twenty one months' imprisonment.

On the second count the appellant pleaded not guilty and after trial was convicted and sentenced to two years' imprisonment to be served consecutively and consecutively with his current prison term of about three and a half years making a total prison term of seven years four months.

The appellant is appealing against his conviction on the second count and against the severity of sentences passed on him.


As regards the appeal against conviction I find no merit in this and must be dismissed.

The appellant is barely seventeen years of age, a

fact which ought to have weighed heavily with the sentencing Court. The appellant has six previous convictions, of which three have been for escaping, all during the second half of 1979.

In considering this case in relation to the charge of escaping I bear in mind what I said in my judgment in the case of Isireli Rokovucago v. R. (Criminal Appeal No. 22 of 1980). For the same reasons I gave in that case I would set aside the sentence of twenty one months' imprisonment passed on the appellant and substitute therefor a sentence of nine months' imprisonment.

With regard to the sentence of two years passed on the conviction for assault of a police officer in the due execution of his duty I feel the sentence is too long particularly in view of the fact that the two sentences passed on the appellant were ordered to be served consecutively. The overall length of these sentences is a factor to be kept in mind lest, as in this case, it becomes too disproportionate to the offences committed. The sentence of two years' imprisonment is set aside and I substitute therefor a sentence of nine months' imprisonment. Both sentences are to be served consecutively.


(T.U. Tuivaga)
Chief Justice

Suva,
20th June 1980.