

PUBLIC PROSECUTOR -v- JAMES SAMUEL

JUDGMENT

In this case the complainant stated that on the night of the 31st March 1982 at about 10.30 p.m. he went to the Palace Night Club having taken some drink with friends and when about to enter he noticed a fight taking place. That he was surprised when he was punched by the accused in the jaw which broke the jaw in two places. Having received the blow, he immediately left and went to Vila Base Hospital where he was treated by a dresser, stayed overnight at the hospital and was then sent to the dental department where he had his jaw wired and was admitted to hospital for two weeks. That after one month, the wire was removed from his jaw. The complainant was severally tested in cross examination by the Public Solicitor, Mr Rissen but his basic evidence remained firm. I took particular attention to the manner in which the witness gave his evidence. His evidence was to the point, he was surprised that he was punched as he had not taken part in any fight, he knew the accused as a taxi driver. I was very impressed in the manner he gave his evidence and accepted him as a witness of truth. His evidence as to the injury was corroborated by Dr Bule, the dentist who also confirmed that the injury could have been caused by a blow of a fist.

The evidence by the accused was that he was a taxi driver at the time of the incident but now a chief representing Tongoa. That on the night of the incident he was drunk. That he did not know the complainant. That he can remember he used his hand, he slapped someone. When asked which hand he used, he first put forward the left hand and then later put out his right hand. That he remembers a row going on and then he contended he could not remember as he was drunk. Judging by his demeanour in the witness stand, I formed the opinion that the witness was not telling the truth. When not sure of an answer to a question he merely stated he was so drunk he could not remember. I just could not accept his evidence.

The witness was called for the defence who never saw the fight, being inside the hall but he did say he went outside, being told of the fight and went up to the accused and told him to stop causing any more trouble, which clearly indicated that the witness knew the accused was truculent that evening. The witness did mention that the complainant owed a debt to the club. The complainant did accept that at one time he owed a debt but not the night of the incident.

In the end, I formed the opinion that the only evidence of the truth I could accept was that of the complainant. I accordingly found the accused guilty and convicted him of the amended charge under section 107 (b) of the Penal Code. I imposed a fine of 10,000VT or 3 months imprisonment. The fine to be paid by the 31st December 1984.