

FAAFUA (VILI) v POLICE

Court of Appeal Apia  
Morling, Ward and Muhammad JJ  
13 November 1992

CRIMINAL LAW - sentencing on charge of manslaughter - provocation

HELD: Sentence of 6 years imprisonment reduced to 4 and a half years.

Toailoa for Appellant  
Aikman for Respondent

This appeal has caused us considerable difficulty. Our initial view was that the sentence imposed by the learned trial judge should not be disturbed. The offence was very serious. But for the element of provocation which the Prosecution obviously accepted was present, the Appellant might well have been charged with murder rather than manslaughter.

But for one factor, we think a sentence of 6 years in this case would have been entirely appropriate. However, it seems that at least in recent years, the longest sentence imposed for manslaughter has been imprisonment for three and a half years. It appears some of the cases which have come before the Court have arisen out of drunken brawls in which the deceased persons lost their lives.

We do not minimise the gravity of the Appellant's offence, but we think the sentence imposed upon him is so far out of line with other relevant sentences that a case has been made out for reducing it to some degree.

If the sentence is reduced to four and a half years it will still be longer than any other sentence imposed in recent years for this class of offence, and at the same time a warning will be given that, in the future, crimes of violence causing death will attract more severe penalties.

The appeal is allowed and the Appellant is sentenced to four and a half years imprisonment. The sentence is to date from 17 July 1992.