

Appellate Jurisdiction

Criminal Appeal No. 43 of 1982

000369

Between:

SENIJIELI BOILA

and

REGINAM

Appellant in Person.
Mr. S. Singh for Respondent.

JUDGMENT

On 24th February, 1982 appellant was convicted on his own plea on fourteen counts of housebreaking, entering and larceny contrary to section 300(a) of the Penal Code and was sentenced on each count respectively to five years' imprisonment to be served concurrently. Appellant was also sentenced to one year imprisonment for breach of conditional discharge making a total sentence of six years' imprisonment.

Appellant is appealing against his sentence alleging that it is manifestly harsh and excessive.

The fourteen offences were committed in private homes in the Samabula area in Suva over a period between 4th November, 1981 and 2nd January, 1982 and involved assorted items and cash to the value of \$5664.75.

The learned Magistrate described the series of housebreaking and stealing, the subject matter of the present charge against appellant, as one of the worst of its kind. Appellant has four previous convictions of which two were for theft.

At the hearing of the appeal the appellant informed this Court that he has now changed his ways and outlook and this change has come about by his recent habit of reading the

Bible and becoming an active practising Christian. He assured the Court that under this new-found spiritual guidance he would never appear in Court again and asked for leniency in regard to his sentence. Coming from a person of only twenty years of age this promise of future good conduct is most encouraging and one can only hope it will be so. Nothing a court desires more than to see a young wayward person change for the better. The appellant has been advised in no uncertain terms that the Court will be watching with close interest his future progress so far as involvement in crime is concerned.

Appellant's age and his plea of guilty to all the charges brought against him are strong considerations in his favour and these do not appear to have been given sufficient weight in the court below on the question of sentence. In my view the overall sentence of six years' imprisonment passed upon this appellant was much too long even allowing for the fact that the offences committed are prevalent and serious.

The appeal is allowed. The sentence passed on appellant in the court below is set aside and in lieu thereof a sentence of three and half years' imprisonment is substituted for each count to be concurrent with each other and concurrent with the sentence of one year imprisonment for breach of conditional discharge arising out of a previous case.

Chief Justice

Suva,
6th August, 1982.