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IN THE SUPREME COURT OF
THE TERRITORY OF PAPUA AND
NEW GUINEA

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Appeal No. 6 of 1958 (P)

Appeal from the Court of Petty Sessions, Port Moresby.

HUGH JOSEPH DUFFY

Appellant

and

G. M. PENEY

Respondent

JUDGMENT DELIVERED BY MR. JUSTICE BIGNOLD
ON 16TH MAY, 1958

This is an appeal purely on the question of sentence, the appellant having pleaded guilty simpliciter in the Court below.

It is apparent from the evidence taken before me that the police inadvertently mis-stated the nature of the previous conviction or the Learned Magistrate failed to hear it correctly.

This alone is a sound ground for reducing the sentence of 6 months but quite apart from this in my view it is improper for the police to state that the accused is unfavourably known to them without a person with knowledge of the matter testifying in what respect he is unfavourably known otherwise the convicted person is unable to meet the statement by the police detrimental to himself.

My determination in no way reflects upon the decision of the Learned Resident Magistrate who quite rightly thought the accused was without merits, but for the foregoing reasons I reduce the sentence to four months imprisonment with hard labour.

I propose asking the Chief Justice to issue a memorandum for the guidance of Crown Prosecutors and others as to the proper method of placing before the Court evidence of prior convictions as the present practice is unsatisfactory and capable of injustice.