

PUBLIC PROSECUTOR

- V -

ARTHUR BAE

The accused pleaded guilty to 5 charges of escaping from legal custody under S 84 Penal Code Act CAP 135. The maximum sentence provided by that section is 5 years imprisonment.

On the first 4 occasions when he left the prison, he returned voluntarily. His absence was apparently not known. On the last occasion, an officer, suspecting that prisoners were leaving the prison and returning, mounted an operation which resulted in him being apprehended at his home. No doubt had he not been apprehended he would have returned again. Equally, he probably would have taken leave again. Effectively he had a key to the prison. He had a piece of a hacksaw blade which had been fashioned so that it could open a lock.

Security at the prison was bad, to say the least. It has been suggested that officers at the prison may have facilitated the escape of the prisoner. This has been denied by an officer who was nominated as being involved in the matter.

The accused is serving a sentence of 14 years imprisonment for joint intentional homicide. He did not escape in the sense of trying to avoid serving his sentence. As escapes therefor, the offences are minor examples of this offence. They represent nevertheless, unacceptable conduct. I think that the offence could perhaps be categorised as breaches of prison discipline. Escape is a prison offence which can be dealt with summarily, by the Superintendent of the prison, under the provisions of the Prisons (Administration Act). If dealt with in this way, no further sentence of imprisonment could be given to the accused. I think that it would have been appropriate for these matters to have been dealt with summarily. By bring the matter to Court, however, the unsatisfactory situation regarded security at the prison has been brought to light.

In determining the sentence, I must consider the seriousness of the offences, as examples of escaping from prison. As I have already said, the prisoner was trying to avoid serving his sentence. The first time he escaped he went to visit a friend. The second, to see his wife, the third, he went to his house to get his bank pass book. On the 4th occasion he went with another prisoner to get kava. On the final occasion when he was apprehended, he had gone to his home for lesson studies.

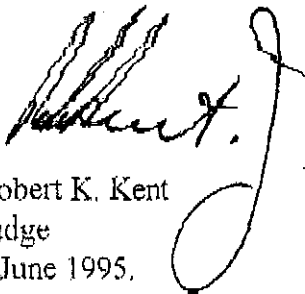
It does seem to me therefore that the offences are really disciplinary matters rather than constituting truly criminal behaviour.

The sentencing options that I have are limited in the circumstances. I do not think that I should add significantly to the sentence which the prisoner is undergoing. Had I been able to do so, I think that I would have ordered concurrency of sentence with the sentence he is undergoing. I am unable at law to do so however. It is inappropriate to fine the prisoner and I think that all I can do is to sentence him to a short term of imprisonment.

I sentence the prisoner to 7 days imprisonment on each charge, to be served concurrently with each other, making a total effective sentence of 7 days imprisonment.

The defendant should be aware that he may lose his entitlement to remissions from his sentence as a result of what he has done. *This could result in him serving a significantly longer sentence than he would if he behaved himself properly in the prison.*

I think that there should be an enquiry into the security of the prison and that measures should be adopted to ensure that this does not happen in the future.



Robert K. Kent  
Judge  
2 June 1995.