

BETWEEN

FALEVI of
Christchurch, Unemployed

Applicant

A N D THE QUEEN

Respondent

In Chambers:

Hearing: 1st February 1990

Counsel: A.N.D. Garrett for Applicant
J. Sandston for Respondent

ORAL JUDGMENT OF WILLIAMSON J.

This is an application for bail. The Applicant has been remanded until the 19th February for a fixture in the District Court on a charge of robbery. This charge concerns an allegation that on 21st December 1989 he assaulted a man, Simon Hayward, and then took from him his wallet and \$140. Apparently the Applicant was apprehended in the vicinity shortly afterwards and has been identified by Mr Hayward. The charge is denied and the Applicant claims that he was in the vicinity for other legitimate reasons.

Counsel for the Applicant advises that there are some language problems so far as the Applicant is concerned. Such problems may be relevant to the statements made by him, in particular on the day of the offence, and indeed to a failure by him to appear in relation to previous charges.

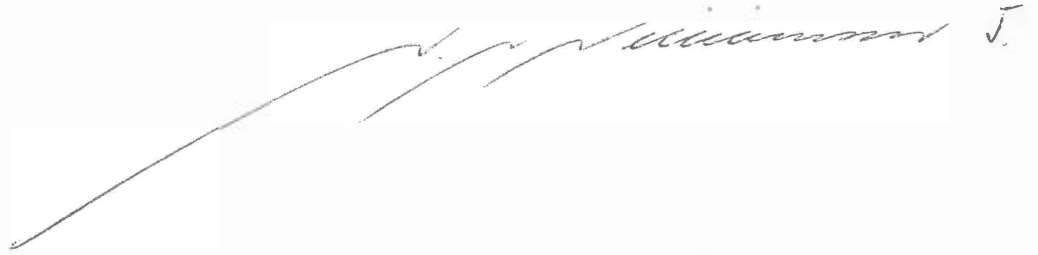
When the Applicant appeared in the District Court bail was declined on the basis that the offence was serious; that it had been committed while he was on bail; and because he had previously failed to appear in the Otahuhu District Court on two occasions. This application is one to this Court's inherent jurisdiction and must be considered afresh. Regard, however, must be had to the reasons given by the District Court Judge in declining bail.

So far as the file before me is concerned, it is unclear as to the exact occasions upon which he failed to appear and to the exact nature of the charges previously laid against him. There is only one information for being in possession of an offensive weapon, namely a machete, on the 11th August 1989 and that information appears to contain references to depositions not proceeding on the 12th October 1989 and 1st November 1989 because of the failure of witnesses to appear. Counsel have also advised me that the Applicant was charged with unlawfully taking a motor vehicle but details of this charge are not before this Court.

In view of the Applicant's previous failure to appear in the Otahuhu District Court in answer to at least one of the charges against him, and the alleged commission of this offence while on bail, I am of the view that it would be inappropriate to grant bail primarily because there is a likelihood that he would not appear in answer to that bail. Certainly the charge is serious and the possible outcome of it may be such that it

would persuade him against appearing. It is more serious than the previous two charges which he still faces.

Accordingly, on the information available to me on this application, bail is declined. Should the circumstances, on a more detailed analysis of the previous charges, appear different from those advised to me by Counsel or shown on the record before me, then no doubt a further application could be made either to the District Court or this Court.

A handwritten signature in cursive script, appearing to read "William J.", is written across the page. The signature is written in dark ink and is positioned above a large, empty rectangular box.

Solicitors:

A.N.D. Garrett, Christchurch, for Applicant
Crown Solicitor, Christchurch, for Respondent