

RAISMET, Appellant
v.
TRUST TERRITORY OF THE PACIFIC ISLANDS, Appellee
Criminal Appeal No. 15
Appellate Division of the High Court
December 17, 1958

Appeal from judgment of imprisonment in default of payment of fine. In a Per Curiam opinion, the Appellate Division of the High Court held that court could imprison for default in payment of fine at any time until fine is fully paid.

Affirmed.

Contempt—Civil—Failure to Pay Fine

Court may sentence defendant to imprisonment for failure to pay fine and such direction may be given or modified at any time until fine is paid in full or imprisonment served which has been ordered in default of payment, provided accused is given opportunity to be heard before any such direction or order is given or modified, except when direction or order is given at time sentence is imposed. (T.T.C., Sec. 169)

Counsel for Appellant: ROSCOE L. EDWARDS, ESQ.
Counsel for Appellee: ALFRED J. GERGELY, ESQ.

Before FURBER, *Chief Justice*, GILMARTIN and MAN-
IBUSAN, *Temporary Judges*

OPINION OF THE COURT

PER CURIAM

This appeal relates solely to the alleged impropriety of the fine imposed as part of the sentence and to the provision in the commitment order with regard to payment of the fine and imprisonment in default of payment. The appellant has been granted a parole by the High Commissioner, a copy of which has been filed with the papers in this appeal and made a part of the record. In the parole, the fine in question has been set aside. There is, therefore, no longer any relief which this court could effectively grant with regard to it and its enforcement.

We are disturbed, however, to note that there is some authority for the claim that the directions with regard to payment of a fine and order for imprisonment in default of payment, which are authorized by Section 169 of the Trust Territory Code without any limitation of time, may only be given at the time sentence is imposed. In spite of precedents in other jurisdictions indicating this result, we can hardly believe that this is the true intent of Section 169. To avoid doubt about it in the future, however, we respectfully suggest that this section might well be amended to make clear that such directions and orders may be given or modified at any time until the fine is paid in full or the imprisonment served which has been ordered in default of payment, provided the accused is given an opportunity to be heard before any such direction or order is given or modified except when the direction or order is given at the time sentence is imposed.

Appeal dismissed without costs as moot.