

IN THE COURT OF APPEAL, FIJI ISLANDS

AT SUVA

CRIMINAL APPEAL NO. AAU0084 OF 2007
(High Court Criminal Case No. HAC 94/07L)

BETWEEN : VILIAME VURO

Appellant

AND : THE STATE

Respondent

Coram : The Hon. Justice Devendra Pathik
Justice of Appeal

Counsel : Appellant – In Person
Ms. A. Driu for the Respondent

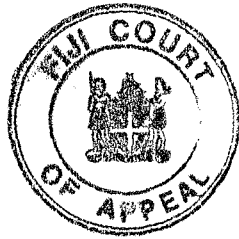
Date of Hearing
& Ruling : 18th January 2008

RULING
(Appeal out of time)

- [1] This is an application by the appellant filed on 10 August 2007 for leave to appeal out of time against the sentence of 3 years 11 months imposed on him by the High Court at Lautoka on 5th July 2007.
- [2] The appellant's reason for being out of time in appealing is that he is unrepresented and is ignorant of the law. He says that if leave is granted his grounds of appeal are that his plea of guilty and other mitigating factors were not considered and the sentence of 3 years 11 months is harsh and excessive.

- [3] The appellant pleaded guilty to Possession of Illicit Drugs contrary to **section 5(a) of Illicit Drugs Control Act** (No. 9 of 2004) in that on 28th February 2006 he without lawful authority had in his possession 911.5 grams of cannabis or Indian Hemp (an illicit drug).
- [4] The appellant was on 12 June 2007 convicted of the said offence in the Magistrate's Court at Sigatoka and the learned Magistrate ordered that he appear at Lautoka High Court for sentencing on 26.06.07.
- [5] The learned Judge sentenced him to imprisonment for a term of 3 years and 11 months with effect from 26.6.07 and commented, inter alia, that *'drugs have the potential to destroy society, and this evil must be rooted out. Its addictive nature can lead to various other anti-social behaviour'* with which I agree.
- [6] His Lordship also stated how he arrived at the sentence.
- [7] The learned State Counsel said that because the appellant was out by only a few days, she had no objection to the late application. She said that this is a first appeal under **s21(1)(c) of the Court of Appeal Act Cap. 12**. This section allows for appeal against sentence with the leave of the Court of Appeal. The ground advanced being that the sentence is harsh and excessive.
- [8] The State Counsel did not oppose leave and agreed that the matter be heard by the Full Court.

- [9] In my view, although His Lordship has stated that he has taken all the mitigating factors into account and how he has arrived at the sentence, lest there be some merit in the ground advanced and to allay any doubt whether the learned Magistrate had jurisdiction to deal with the case under the Illicit Drugs Control Act, and the State Counsel not objecting I will allow leave to appeal out of time under s21(1)(c) of the Court of Appeal Act. The hearing is to be by the Full Court and I adjourn this case to the Call Over date.




D. Pathik

Judge of Appeal