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IN THE COURT OF APPEAL, FIJI ISLANDS  
ON APPEAL FROM THE HIGH COURT OF FIJI

CRIMINAL APPEAL NO. AAU0094 OF 2008S  
(High Court Criminal Action No. HAC0145 of 2007L)

BETWEEN: GRACCELIA BRAVO

Appellant

AND: THE STATE

Respondent

In Chambers: Randall Powell, Justice of Appeal

Hearing: Wednesday, 5<sup>th</sup> November 2008, Suva

Counsel: Appellant in Person  
A. Driu for the Respondent

Date of Ruling: Wednesday, 5<sup>th</sup> November 2008, Suva

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**RULING**

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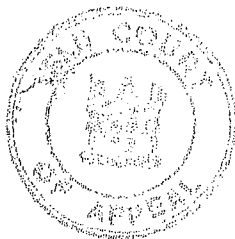
[1] On 12 August 2008 following a hearing on 11-12 August 2008, Graccelia Gullermina Feria Bravo ("Ms Bravo") was convicted of importing 2.1 kg of cocaine into Nadi on 11 September 2007 and of being in possession of that cocaine at Nadi on 13 September 2007.

[2] The evidence was that Ms Bravo travelled from Mexico to Argentina where she was given the cocaine. She strapped it to her body and travelled on a flight to Fiji via Auckland. The cocaine was 73%.

- [3] The trial judge took into account Ms Bravo's age (46), that she was a widowed mother of four, that she had co-operated with the police and the Court agreeing to many facts and that she had no previous convictions.
- [4] On 28 August 2008 Ms Bravo lodged signed a Petition of Appeal that was received by the Court of Appeal on 24 September 2008. The application for leave to appeal will be treated as being within time.
- [5] Ms Bravo seeks to appeal her conviction. The proposed grounds are not entirely clear but seem to be firstly that she was not in possession of the cocaine and secondly that she was duped into bringing it into Fiji believing it was medicine for someone called Fernando.
- [6] Section 21 of the Court of Appeal Act provides:
- (1) That a person convicted on a trial before the High Court may appeal under this Part to the Court of Appeal –*
- (a) against his conviction on any ground of appeal which involves a question of law alone;*
- (b) with leave of the Court of Appeal or upon a certificate of the judge who tried him that it is a fit case against his conviction on any ground of appeal which involves a question of fact alone or a question of mixed law and fact or any other ground which appears to the Court to be a sufficient ground of appeal; and*
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- (c) with the leave of the Court of Appeal against the sentence passed on his conviction unless the sentence is one fixed by law.*
- [7] None of the proposed appeal points raise any questions of law and therefore leave is required.
- [8] Ms Bravo's evidence was that a person she met on the internet called Martin met her in Argentina and asked her to bring medicine to Fiji for a Fernando who was

with bone cancer. Martin asked to hide the medicine because of the quantity. She gave Martin the name of the hotel that she would be staying at in Fiji and he told her that Fernando would contact her. She checked into the West Motor Inn, Fernando duly called, and she went with him in a taxi taking the medicine with them into Nadi.

- [9] The trial judge fairly put her defence to the assessors, namely that she was naive and did not know that she was carrying or in possession of an illicit drug. The decision of the assessors was unanimous and one that was open to them on the evidence.
- [10] I explained the common law distinction between findings of fact and findings of law to Ms Bravo but of course this is not an easy distinction for someone who has no legal training and limited English to understand.
- [11] Leave to appeal is refused because no error of law by the trial judge appears in the trial judge's approach or in the summing up. Not only would an appeal be bound to fail there would be a real risk that a cross-appeal on sentence would see the sentence increased. I pointed out to Ms Bravo that two weeks after her sentence a first time offender found guilty of possessing 5 kg of cannabis was sentenced to 8 years in prison and that many judges would consider her offences much more serious than that one.
- [12] Leave to appeal is refused.



Solicitors:

**Appellant in Person**

**Office of the Director of Public Prosecutions, Suva for the Respondent**

A handwritten signature in black ink, appearing to read "Randall Powell".

**Randall Powell**  
**Justice of Appeal**