

IN THE COURT OF APPEAL

SUVA, FIJI ISLANDS

[Criminal Appeal No. AAU0019 of 2009]
(HAC 139/07)

Before The Hon. President, Mr Justice John E. Byrne

BETWEEN : ILAISA SOUSOU CAVA (Appellant/Applicant)

AND : THE STATE (Respondent)

COUNSEL : T. Fa for the Applicant
: P. Bulamainaivalu for the Respondent

Date of Hearing and Ruling: 10th November 2009.

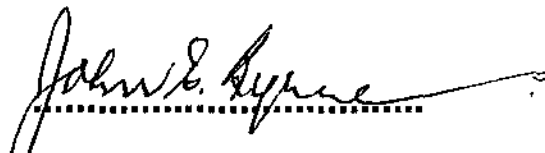
RULING ON APPLICATION
FOR LEAVE TO APPEAL OUT OF TIME

-
- [1] On the 26th of November 2008, after a trial beginning on the 10th of November, the Applicant was convicted in the High Court of murder and sentenced to a term of 16 years imprisonment. He now applies for leave to appeal out of time against his conviction and sentence.
- [2] His application for leave was filed on the 20th of July 2009, almost seven months after he was convicted.

- [3] In support of his application, he relies in part on an affidavit by the lawyer who represented him at the trial, Mr Tevita Fa. All this affidavit does is to state why Mr Fa was consulted about this application until some time (not specified) after the conviction.
- [4] The applicant had drafted his own Grounds of Appeal with the assistance of other prisoners and he claims this was one of the reasons for the delay in filing his application. The applicant is not a stranger to the Court system. He has 22 previous convictions some of which are for offences of violence.
- [5] Because of his previous convictions and his knowledge of the way the Court system works I find his reason for making his application seven months late unconvincing. As to the chances of any appeal succeeding if I were to grant leave, I consider such chances are minimal. The learned judge described the offence in this way in paragraph 5 of her remarks on sentence:
- "This was a dreadful crime. A young taxi driver was asked to drive to a remote part of Veisari where he assaulted him, strangled him with a rope, then hung him by the neck at the bridge in Veisari. The facts of the case warrant a minimum term of 17 – 18 years imprisonment. However given your relative youth, I will reduce that to 16 years".**
- [6] I accordingly dismiss the application for leave to appeal out of time on the ground that it lacks merit, has been made too late, and that no satisfactory reason for the delay has been given by the applicant.

Dated at Suva this 10th of November 2009




.....
John E. Byrne, President.