

FIJI COURT OF APPEAL

CRIMINAL APPEAL NO. AAU0001 OF 1996

BEFORE THE HON. JUDGES OF APPEAL, MR JUSTICE I. R. THOMPSON
AND THE HON. JUSTICE SIR IAN BARKER AND THE HON. MR. JUSTICE
J. D. DILLON

TUESDAY THE 11TH DAY OF FEBRUARY 1996 AT 11.00 A.M.

TEVITA ROSADRIWA
IOWANE TAROGA

APPELLANTS

v.

THE STATE

RESPONDENT

Appeal against conviction and sentence.

Appellants both present
G. P. Shankar for 1st Appellant
A. Gates for 2nd Appellant
Rice for Respondent

JUDGMENT

We are satisfied that the trial did miscarry because the two appellants were not separately represented as they should have been. The Director does not oppose the appeal.

Appeal allowed. Conviction of each appellant quashed and sentence of each appellant set aside. The appellants are to be retried in the High Court before another judge.

Both appellants committed to bail on same terms as previously, same as to residence and reporting. Iowane Taroga is to live at Nakasi and report once a week on Saturdays between 6 am and 6 pm to Nakasi Police Station. Tevita Rosadriwa to live at Navua and to report to Navua Police Station once a week on Saturdays between 6 am and 6 pm.

In the event that Dr Alera is not available to give evidence at the retrial, his evidence at the previous trial is to be read into the record as evidence in the retrial.

(Sgd) Mr. Justice I. R. Thompson
Justice of Appeal

(Sgd) Sir Ian Barker
Justice of Appeal

(Sgd) Mr. Justice J. D. Dillon
Justice of Appeal