

IN THE COURT OF APPEAL, FIJI AT SUVA

CRIMINAL APPEAL AAU0010/2001S
(High Court Criminal Appeal No. 67 of 2000)

BETWEEN: IOWANE TUISIGA Appellant/Applicant

AND: THE STATE Respondent

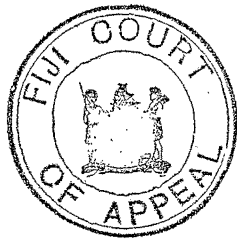
**APPEAL AND APPLICATION FOR LEAVE
TO APPEAL OUT OF TIME**

1. On 13 April 2000 the applicant was convicted in the Magistrates' Court on a charge of robbery with violence, and sentenced to 3½ years imprisonment.
2. His appeal against conviction and sentence was dismissed by the High Court on 17 November 2000.
3. On 29 May 2001 the applicant lodged what purported to be an appeal against the decision of the High Court. On 25 June 2001 he lodged an application for leave to appeal out of time.
4. The evidence against the applicant consisted of his confession together with eye witness accounts of the robbery. The evidence of identity was supplied by the confession alone. The applicant's principal complaint is that the confession was obtained by duress. In the Magistrates' Court, where the applicant represented himself, he did not cross-examine the Constable who took the statement. However, in an unsworn statement from the dock the applicant raised the question of duress. The Magistrate however found the prosecution case proved.

- 5. By virtue of s.22 of the Court of Appeal Act a further appeal to this Court relating to a prosecution originating in the Magistrates' Court is on a question of law only. The applicant's contentions do not raise any question of law. Further, the applicant has not advanced any grounds excusing the long delay in making this application.

- 6. The appeal cannot succeed. Acting under s.35 of the Court of Appeal Act, I dismiss both the application and the appeal.

Dated at Suva this 12 October 2001.



Thomas Eichelbaum

Thomas Eichelbaum
Justice of Appeal