## IN THE COURT OF APPEAL, FIJI AT SUVA

## CRIMINAL APPEAL NO. AAU0007/2000

(High Court Criminal Appeals Nos. HAA34 of 1998, HAA35 of 1998 & HAA 36 of 1998)

**BETWEEN:** 

JONACANI WAQA -

Appellant

AND:

THE STATE

<u>Respondent</u>

## APPEAL AGAINST CONVICTION AND SENTENCE

- 1. Early in 1998 the appellant was sentenced in respect of several crimes of robbery with violence. There were four separate offences, and the appellant received various terms of imprisonment ranging up to 4½ years. Because one of the sentences was directed to be cumulative, the effective term was 6½ years imprisonment.
- 2. The appellant appealed to the High Court which on 29 May 1998 dismissed the appeal.
- 3. In February 2000 the appellant filed a document which has been placed before me at the current sittings of the Court of Appeal. Although, since the attempted coup in May 2000, the Court has not been able to sit regularly, there has been an unusually long delay in placing the file before a Judge and this is regretable.
- 4. In part the appellant's document is a further appeal against sentence. When it was filed, of course the time for appealing had long expired, but I am prepared to extend the time. However, a second appeal against sentence can only be made on a point of law alone. The appellant's notice does not raise any tenable point of law.
- 5. The document also purports to be an appeal against conviction. However, in this respect the appeal is misconceived, because there has never been an appeal against conviction to the High Court, and it is not possible to appeal directly to this Court against a conviction in the Magistrates' Court.
- 6. Accordingly, acting under s.35(2) of the Court of Appeal Act as amended, I dismiss the appeal against sentence, and also the appeal against conviction.

Dated at Suva this

<sup>7</sup> October 2001.

Thomas Eichelbaum Justice of Appeal