

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

CRIMINAL APPEAL NO. AAU0003 OF 2001S  
(High Court Criminal Appeal No. HAA0077/2000S)

BETWEEN:                      SEVULONI KERETABUA                      Appellant

AND:                              THE STATE                              Respondent

Coram:                              Reddy, P  
   Smellie, JA  
   Penlington, JA

Hearing:                              Monday, 25 November, 2002, Suva

Counsel:                              Appellant in Person  
   Mr G. Allan for the Respondent

Date of Judgment:                      Friday, 29 November, 2002

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JUDGMENT OF THE COURT

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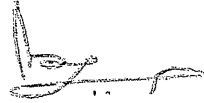
The Appellant pleaded guilty to one Count of robbery with violence, and one of possessing ammunition without a licence. He was sentenced to 5 years imprisonment for robbery, 1 year for possessing ammunition without a licence, the sentences to run consecutively.

He appealed against the sentence to the High Court. Shameem J. dismissed the appeal on the 23 March 2000. She found that the sentence imposed was correct in principle, and not manifestly excessive.

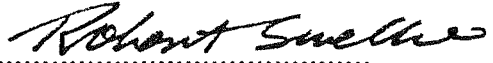
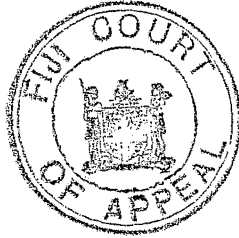
In January 2001 the Appellant purported to appeal to this Court against the sentence, on the ground that it was harsh and excessive, and he asked for leave to appeal out of time. His application was dealt with by a single Judge of this Court (Eichelbaum JA), who on 15 October 2001, granted the Appellant leave to appeal out of time, but dismissed the appeal under Section 35 of the Court of Appeal Act (as amended), because it did not raise any point of law, and this Court has no jurisdiction to hear appeals from the High Court against sentence, save on a point of law.

The Appellant has purported to apply under S.35(3) of the Court of Appeal Act (as amended in 1998) for a rehearing of his appeal by the full Court. In *Tevita Malasebe, Jone Cole Sovui v The State*, Criminal Appeal 33 of 2000 and 23 of 2002, this Court, differently constituted, pointed out that S.35(3) of the Court of Appeal Act (as amended) gives an Appellant the right to a rehearing by a full Court only where there has been a decision of an interlocutory nature by a single Judge, in respect of matters specified in S.35(1) of the Court of Appeal Act. Eichelbaum JA, dismissed the Appellant's appeal, on the basis that it did not raise a point of law, and was therefore incompetent. His decision was not of an interlocutory nature, but final. We have no jurisdiction to hear this appeal.

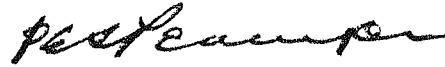
Accordingly, we dismiss the application.



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Reddy, P



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Smellie, JA



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Penlington, JA

Solicitors:

Appellant in Person  
Office of the Director of Public Prosecutions, Suva for the Respondent