

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

CRIMINAL APPEAL NO. AAU0017/2002S

BETWEEN:

LEPANI VUNISA

APPELLANT

AND:

THE STATE

RESPONDENT

Coram: Hon. Gordon Ward, President
Hon. Eichelbaum, JA
Hon. Penlington, JA

Hearing: Monday, 12th July, 2004, Suva

Counsel: Mr. G.P. Shankar for the Appellant
Mr. D. Goundar for the Respondent

Date of Judgment: 12th July 2004

JUDGMENT OF THE COURT

The position of the State in this appeal is, first, that the failure by the Trial Court to direct the Assessors on the dangers of accepting the inherently weak identification evidence alone renders the conviction unsafe. See R. v. Turnbull 1977 1 Q.B. 224 (CA) and secondly, that the State does not support a retrial.

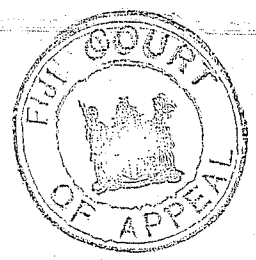
2.

Accordingly, the Judgment of the Court is as follows:

- 1. Leave to appeal against Conviction is granted.
- 2. The appeal against Conviction is allowed.
- 3. The verdict of guilty is set aside.
- 4. The Conviction is quashed.
- 5. A verdict of acquittal is entered.

Gordon Ward

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Gordon Ward, President



Joseph Eichelbaum

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Eichelbaum, JA

Pennington

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Pennington, JA

12TH JULY, 2004

Solicitors:

G.P. Shankar & Co., Ba for the Appellant

Office of the Director of Public Prosecutions, Suva for the Respondent