

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

**Criminal Appeal No. AAU 47/06**  
(High Court Criminal Appeal No. HAA 009/06S)

**BETWEEN:**

**EPI CAMA**

***Appellant***

**AND**

**THE STATE**

***Respondent***

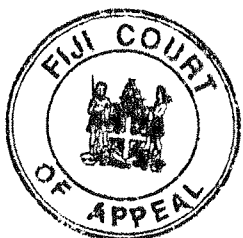
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**JUDGMENT**

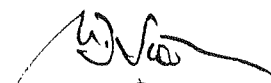
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- [1] On 13 December 2005 the Appellant was convicted of one count of robbery with violence. He was sentenced to three years imprisonment. He appealed against his sentence to the High Court.
- [2] The principal ground of appeal was the alleged disparity in the sentences passed on the Appellant and his two co-accused. As pointed out however by the High Court the nine months imprisonment which was imposed on the first co-accused reflected the fact that he was a first offender whereas the Appellant had two serious previous convictions. The eighteen months imprisonment imposed on the second co-offender reflected his "less significant" criminal record and also the secondary part which he played in the attack of the complainant.
- [3] On 21 April 2006 the appeal against the sentence, which the High Court described as lenient, was dismissed.

- [4] The period of time allowed for a further appeal to this court is thirty days. The appeal period expired on 22 May. The present appeal was lodged on 14 August and therefore this must be treated as an application for leave to appeal out of time against sentence.
- [5] A second appeal to the Court of Appeal from the High Court is governed by Section 22 (1) and (1A) of the Court of Appeal Act. No right of appeal lies against a confirmed sentence unless the sentence was "unlawful or was passed in consequence of an error of law".
- [6] The only alleged error of law advanced by the Appellant is one which was not referred to in the High Court's judgment. It appears to involve a failure by the Resident Magistrate to take into account payment of compensation to the complainant. There is no reference to the matter in the Magistrates' Court record. In my view, whether or not payment of compensation was made, offered or overlooked makes no difference to the correctness in law of the sentence passed.
- [7] The sentence imposed on the Appellant was plainly lawful. No error of law has been disclosed. No right of appeal against the sentence lies. The question of granting leave to appeal out of time does not arise. This application is dismissed.



12 September 2006

  
M.D. Scott

Resident Justice of Appeal