

Office

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

Criminal Appeal No. AAU 0064/08

BETWEEN:

MARIKA RASORO

Appellant

AND

THE STATE

Respondent

Counsel:

Appellant in person

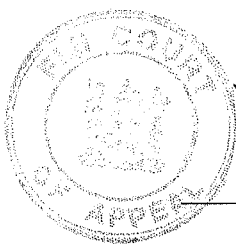
Ms. A. Driu for the Respondent

J U D G M E N T

1. The applicant appeared before me, on 1 August 2008 for the hearing of his Leave application to appeal out of time. In hearing this matter, I derive my jurisdiction from section 35 (1) &(2) of the Court of Appeal Act Cap 13 [CA]
2. This is a second appeal of the appellant and therefore it is limited to issues of law only: section 22 (1) of the Court of Appeal Act Cap 13.

His first appeal was dismissed by Shameem J on 11 December 2007 [HAA: 044 of 2007]. He wrote his letter of appeal to the Registry of the Court of Appeal on 5 May 2008. His appeal was untimely and needed leave to appeal out of time if it is to continue.

3. The appellant was advised that for leave to be granted for an untimely appeal, the court must be satisfied that there exists good cause for the delay, there is merit in the appeal and the absence of any prejudice to the State: see, **State v Patel [2002] FJCA 13; AAU 0002 of 2002.**
4. The reason advance by the appellant for the delay were: i) that his counsel in the High Court appeal did not advise him of right to appeal; ii) he was not knowledgeable of the legal procedures and processes and that he relied on his lawyer, who did not help.
5. In reviewing the proposed grounds of appeal they substantially cover the same grounds, alleged in his first appeal to High Court and they were properly dealt with on that occasion. There are no merits to the same grounds without any reference as to why the basis upon which it was dealt with by the High Court is wrong in law.
6. I am satisfied that there are no grounds advanced by the appellant to explain the delay and even if leave was granted the grounds advanced have no prospect of success.
7. Application is refused.



[Handwritten Signature]
Isikeli Mataitoga

Justice of Appeal

At Suva

1 August 2008