

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 005 OF 2019S

STATE

Vs

MALAKAI SELEBULA

**Counsels : Mr. E. Samisoni for State
Ms. L. David for Accused**

Hearings : 5, 6 and 7 October, 2020.

Summing Up : 8 October, 2020.

Judgment : 8 October, 2020.

JUDGMENT

1. The three assessors had returned with a unanimous opinion finding the accused not guilty as charged.
2. Obviously, the three assessors had not accepted the prosecution's version of events. It also meant that they were not sure of the credibility of the complainant's identification evidence including the circumstantial evidence.
3. I have reviewed the evidence and I had directed myself in accordance with the summing up I gave the assessors today.

4. The assessors' verdict was not perverse. It was open to them to reach such conclusion on the evidence.
5. The complainant's identification evidence had been put before the three assessors. They were not sure whether or not the accused was guilty as charged.
6. The prosecution's circumstantial evidence had also been put before the three assessors. They were not sure whether or not the accused was guilty as charged.
7. The law required the prosecution to prove the accused's guilt beyond a reasonable doubt before the three assessors. They are not sure of the accused's guilt.
8. The assessors represent the public and their view must be treated with respect. Given that there is a doubt on the accused's guilt, the benefit of the doubt must go to him.
9. I accept the three assessors' unanimous opinion. I find the accused not guilty as charged. I acquit him accordingly. You are free to go home.
10. Assessors thanked and released.



Solicitor for the State
Solicitor for the Accused

: **Office of the Director of Public Prosecution, Suva.**
: **Legal Aid Commission, Suva.**



Salesi Temo
JUDGE