

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

CRIMINAL APPEAL NO: HAA 002 OF 2023

BETWEEN : **ULAIASI QALOMAI**

AND : **STATE**

Counsel : Applicant in Person
 : Ms S Shameem for the State

Date of Hearing : **24 February 2023**

Date of Ruling : **24 February 2023**

RULING

- [1] This is an application for an enlargement of time to appeal.
- [2] The applicant is a serving prisoner.
- [3] Following a trial in the Magistrates' Court at Suva, the applicant was convicted of one count of unlawful possession of marijuana contrary to section 5(a) of the Illicit Drugs Control Act. On 21 March 2019, he was sentenced to one month imprisonment, concurrent with his pre-existing sentence.
- [4] Nearly four years later, on 16 February 2023, the Registry received a notice of appeal filed by the applicant in person from the prison. The notice is dated 10 November 2022. The main complaint is that the conviction is not supported by evidence.

- [5] The length of the delay is substantial. When the delay is substantial, an enlargement of time is granted if there is a ground of appeal which justifies serious consideration (*Kumar v State; Sinu v State* [2012] FJSC 17; CAV0001.2009 (21 August 2012)).
- [6] The prosecution case was that the applicant committed the offence while he was a remand prisoner. On the day in question, he was produced in court for his case. The escorting police officers felt suspicious of the applicant's behaviour while he was in the courtroom. He was escorted to a washroom and searched. They found a plastic bag containing dried leaves concealed in his underpants. The Forensic report showed that the substance was marijuana, weighing 1.7g.
- [7] The defence case was that the drugs were not found in the applicant's physical possession but was discarded on the washroom floor by someone else.
- [8] The learned magistrate did not believe the defence account but believed the prosecution witnesses. She found the prosecution had proved the charge beyond reasonable doubt. This court is very unlikely to disturb the findings of the learned trial magistrate.
- [9] The appeal has virtually no chance of success.
- [10] The application for an enlargement of time is refused.




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Hon. Mr Justice Daniel Goundar

Solicitors:

Office of the Director of Public Prosecutions for the State
Applicant in Person