

ELIKI MOTOTABUA v STATE (AAU0059 of 2010)

COURT OF APPEAL — CRIMINAL JURISDICTION

5 MADIGAN JA

25, 31 October 2012

10 **Practice and procedure — vexatious litigation — leave to appeal — certificate of termination of proceedings — multiple applications for stay — multiple appeals — no appeal can lie — Administration of Justice (Amendment) Decree ss 2, 5(5) — Court of Appeal Act s 35(2).**

15 The applicant applied for leave to appeal the termination certificate issued regarding his attempts to have proceedings against him in the Magistrates' Court permanently stayed.

Held –

(1) The application for leave is vexatious and is dismissed under s 35(2) of the Court of Appeal Act.

20 (2) No appeal can lie as a matter of law to a termination certificate issued by the Registrar pursuant to s 5(5) of the Administration of Justice (Amendment) Decree No 2 of 2009.

Leave to appeal refused and appeal dismissed.

Applicant in person.

25 *J Cokanasiga* for the State.

[1] **Madigan JA.** The applicant applies for leave to appeal the termination by the Chief Registrar of his attempts to have proceedings against him in the Magistrates' Court permanently stayed.

30 [2] The applicant was originally charged in the Nausori Magistrates' Court on the 4th February 2003 with two counts of possession of illicit drugs to which he pleaded not guilty. That matter has never been determined for the very reason that the applicant has made multiple applications for stay in that Magistrates' Court and in the High Court and has made multiple appeals consequent to refusal of those applications to the Court of Appeal and to the Supreme Court.

35 [3] The certificate of termination of proceedings issued on the 3rd August 2010 did not give reasons (nor should it) – but that is now the subject of the latest appeal by this applicant. He states that the evidence 'in issue' should have been 'legally discussed' and he submits before me that denial of his cause is a breach
40 of his human rights.

[4] This applicant appears to be addicted to litigation to the extent that his appeals have now become vexatious. That in itself would be grounds to dismiss this appeal however it is a matter of law as stipulated by s 2 of the Administration of Justice (Amendment) (No 2) Decree 2009 that such a certificate issued by the
45 then acting Chief Registrar is 'not subject to challenge in any court or in any tribunal.'

[5] This application for leave fails therefore on two grounds: first that it is vexatious and should be dismissed under s 35(2) of the Court of Appeal Act and secondly that no appeal can lie as a matter of law to a termination certificate
50 issued by the Registrar pursuant to s 5(5) of the Administration of Justice (Amendment) Decree No 2 of 2009.

[6] The applicant is refused leave to appeal and his appeal is dismissed pursuant to s 35(2) of the Court of Appeal Act.

Leave to appeal refused and appeal dismissed.

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