IN THE SOLOMON ISLANDS COURT OF APPEAL

NATURE OF JURISDICTION:	Appeal from Judgment of the High Court of Solomon Islands (Pallaras J)
COURT FILE NUMBER:	Criminal Appeal Case No.71 of 2024 (On Appeal from High Court Criminal Case No. of)
DATE OF HEARING:	13 October 2025
DATE OF JUDGMENT:	31 October 2025
THE COURT:	Muria P Palmer CJ Morrison JA
PARTIES:	WALTER MANI -V - REX
ADVOCATES: APPELLANT: RESPONDENT:	 D. Hou A. Kelesi
KEY WORDS	Jurisdiction for Court of Appeal to reopen an appeal procedure to be adopted. Held: successive appeals amounting to abuse of process — application dismissed
EX TEMPORE/RESERVED	RESERVED
ALLOWED/DISMISSED	DISMISSED
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JUDGMENT OF THE COURT

1. The appellant was charged with the murder of one *Moffat Saueha* ("the Deceased") on 9 June 2010. After trial on a plea of not guilty, he was convicted on 4 September 2013 and sentenced to life imprisonment. His appeal to this Court, registered as *Criminal Appeal Case No. 25 of 2013*, was heard on 7 May 2014, and judgment delivered on 9 May 2014. The appeal was dismissed.

2. That appeal has since been referred to as the ***Mani 1*** **case**[1].

3. Subsequently, having unsuccessfully sought leave to appeal further to the Judicial Committee of the Privy Council[2], the appellant made another attempt to invoke this Court's jurisdiction. That appeal, registered as *Criminal Appeal Case No. 25 of 2021*[3], was heard on 28 June 2022 and judgment delivered on 8 July 2022. The appeal was again dismissed.

4. In its judgment, this Court, in what is now referred to as *Mani 2 case*, observed that the application before it was "an unusual application," being one that sought leave to appeal to a differently constituted Court of Appeal. The Court noted that its jurisdiction on that occasion was confined strictly to determining the leave application.

5. If that application could properly be described as "unusual," the present one may fairly be characterised as "extraordinary." Having exhausted all available appellate avenues — including the fundamental right to be heard on appeal, which the law accords to a convicted person — the appellant now seeks, before yet another differently constituted panel of this Court, to re-litigate substantially the same issues of law and fact, and to obtain essentially the same relief.

6. This raises a fundamental question as to how far such repeat applications can properly be entertained before they amount to an abuse of the process of the Court, or even border on contempt of the Court's jurisdiction and its appellate authority. While the principle of fairness requires that every convicted person be afforded the opportunity to be heard on appeal, it is equally a cornerstone of the administration of justice that there must, at some point, be finality in litigation.

7. It cannot reasonably be said that the appellant has been denied the benefit of due process. He has been represented by counsel, heard at length, and accorded every procedural safeguard of a fair trial and appeal guaranteed by law. The same law that secures those fundamental rights also sets the boundaries of their exercise. Once a

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[1] Mani v Regina [2014] SBCA 12; SICOA-CRAC 25 of 2013 (9 May 2014), per Goldsbrough P., Williams JA., Sir Gordon Ward JA.

[2] [1] Bade v The Queen [2016] UKPC 14; [2] Mani v The Queen (Solomon Islands) JCPC 2019/0059.

[3] Mani v R [2022] SBCA 5; SICOA-CRAC 25 of 2021 (8 July 2022), - referred to as "**the Mani 2 case**".

conviction and sentence have been duly considered and confirmed on appeal, those rights are deemed to have been fully and finally exhausted. This is now the third time the appellant has been heard before this Court on the same conviction.

The issues raised on appeal.

8. The grounds relied upon in the appellant's first appeal (*Mani 1*) were set out at paragraph 1 of that Court's judgment as follows:

> "*[1] The appellant was charged with the murder of one Moffat Saueha on 9 June 2010. He pleaded not guilty and was convicted on 4 September 2013. He appeals against conviction on four grounds:*
>
> > *1. The verdict is unsafe or unsatisfactory on the basis that it is unreasonable or it cannot be supported having regard to the evidence and occasioned a miscarriage of justice by reason of the failure of the learned trial judge to take into account the totality of all the circumstances or evidence and relevant inferences open thereto pertaining to provocation.*
> >
> > *2. The learned trial judge erred in law in failing to recognise the fact that provocation in pursuance of subsection 204(a) and section 205 of the Penal Code does not require the defendant to have acted from such terror of immediate death or grievous bodily harm as a precondition.*
> >
> > *3. The learned trial judge erred in law in holding that there was no provocation since the appellant had the intention because he knew that what he did would probably kill or cause grievous bodily harm.*
> >
> > *4. The learned trial judge erred in law and/or in fact in holding that the appellant did not stab the deceased under provocation to reduce the murder conviction down to manslaughter pursuant to sections 204 and 205 of the Penal Code.*"
>
> With leave, counsel has added another ground:
>
> > "*That the learned judge erred in ruling out excess self-defence or harm in excess of justified harm by failing to direct himself and give any weight to whether the defendant is entitled to use some force at all to repel his assailant (deceased) in self-defence but for the use of excessive force and failed to consider that in such circumstances a conviction of manslaughter pursuant to section 204(b) of the Penal Code is open rather than murder.*"

9. Those matters were fully considered and addressed by this Court in *Mani 1*, and the appeal was dismissed. That would ordinarily have concluded the matter. However, the appellant, through his counsel Mr Hou, subsequently filed an application for *special leave* for the appeal to be reheard *de novo* before a differently constituted Court of Appeal.

10. That application, forming the basis of *Mani 2*, was heard on 28 June 2022, and decision delivered on 8 July 2022. The application for special leave was dismissed.

Summary of the Court's Decision:

11. The decision of this Court in *Mani 2* is summarised below, as it provides the essential background to the present application.

Brief Background

12. In Mani 2, the applicant had sought **special leave to appeal to a differently constituted Court of Appeal** after his original appeal (in Mani 1), had been heard and dismissed. The application, in substance, sought to **reopen**, or re-litigate the earlier appeal on the basis that **the applicant had not received a fair hearing**, and that various procedural and factual irregularities had occurred during the earlier proceedings.

13. The principal contention was that **the applicant's right to a fair hearing under section 10(4) of the Constitution** had been breached.

Issues for Determination

14. There were two main issues for consideration before the Court.

    1. **Jurisdictional Issue:**

       Whether the Court of Appeal has jurisdiction under Solomon Islands law to grant leave to reopen an appeal that has already been finally determined.

    2. **Merits Issue:**

       If such limited jurisdiction exists, whether the applicant had demonstrated the **exceptional circumstances** necessary to justify the exercise of that jurisdiction — namely, **whether a significant injustice had probably occurred** and **there was no alternative effective remedy available.**

DISCUSSION

(1) Jurisdiction to Reopen Appeals

15. The Court reaffirmed that an **appeal is a statutory right** and that the **Court of Appeal is a creature of statute**, its powers confined to those expressly conferred by law. In this regard, reliance was placed on the observations of Dixon J in *Grierson v The King*[4] and *Attorney-General v Sillem*[5] to the effect that appeals do not exist at common law but only by statute.

16. However, the Court accepted that there exists a **limited residual jurisdiction**, derived from principles recognised in comparable common law jurisdictions, to reopen a concluded appeal in order to prevent a **significant injustice**.

17. This principle was drawn from the decision of the **House of Lords** in ***The Ampthill Peerage Case*** **[1977] AC 547**[6], which underscored the competing policy considerations between **finality of litigation** and **justice in individual cases.** Lord Wilberforce observed that while the law values finality, it also provides safeguards allowing exceptional departure from that rule where justice so demands — such as appeals out of time, or cases involving fraud.

18. The Court further referred to the **English Court of Appeal decision in *Taylor v Lawrence***[7], where Lord Woolf CJ confirmed that an appellate court retains a **residual power to reopen an appeal** in **truly exceptional circumstances**, for example, where bias or a fundamental defect has resulted in a serious injustice. The essential preconditions were stated to be:

    i. A **significant injustice** must probably have occurred;

    ii. There must be **no alternative effective remedy**; and

    iii. The application must be supported by **clear and credible evidence**, not merely by submission or speculation.

19. The Court in that case held that those principles were applicable and appropriate to be adopted within the Solomon Islands context, both in civil and criminal appeals, but only as a matter of **high judicial restraint**.

(2) Application of Principles to the Case

20. Having accepted that such limited jurisdiction existed, the Court proceeded to examine whether the applicant had met the **very high threshold** required.

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[4] Grierson v The King [1938] HCA 45 – 60 CLR 431.
[5] [1864] 2 H. & C. 581, at pp. 608, 609; 159 E.R. 242, at p. 253.
[6] The Ampthill Peerage Case [1977] AC 547,
[7] Taylor v Lawrence [2001] EWCA Civ 119, [2002] EWCA Civ 90.

21. The Court found that:

    i. **No sworn evidence** or supporting material had been filed to substantiate the applicant's allegations.

    ii. The complaints—relating to lack of preparation time, pressure of work, failure to obtain an adjournment, and alleged bias—were **unsupported assertions** and could not be tested.

    iii. The applicant's counsel had appeared at trial and on appeal, was fully aware of the issues, and had access to the transcript. There was no credible basis for the claim that the appeal had been unfairly conducted.

    iv. The matters now raised were **ordinary grounds of appeal** that could and should have been argued at the earlier hearing. They were not matters such where new or fresh evidence had become available since trial which was not available and therefore warranted a re-hearing as the evidence now sought to be tendered or relied may have an effect on the outcome of the case or matter before the court.

22. The Court concluded that the application was **an attempt to re-litigate issues** already determined, rather than a demonstration of exceptional injustice warranting reopening. They were not matters such where new or fresh evidence had become available since trial which was not available and therefore warranted a re-hearing as the evidence now sought to be tendered or relied may have an effect on the outcome of the case or matter before the court.

Decision and Reasons

23. The Court held that:

    (1) The **jurisdiction to reopen an appeal** exists only in **rare and exceptional circumstances**, and its exercise is governed by the strict principles articulated in *Taylor v Lawrence*.

    (2) The applicant had failed to demonstrate, by credible evidence, that any **significant injustice** had occurred or that **no alternative remedy** was available.

    We form the view that it is incumbent upon Counsel to provide such material in the form of evidence or material to support its application for special leave that it is of substance and simply not an attempt to re-litigate issues.

    (3) The matters raised were ordinary appeal points, properly dealt with at the original appeal, and did not justify reopening the case.

24. Accordingly, the Court **refused and dismissed the application for special leave to appeal.**

The Present Application for Special Leave to Appeal (*Mani 3*).

Introduction

25. This is an application (for the third time) by the applicant, **Walter Mani**, seeking **special leave to reopen and re-argue** two previous appeals against his conviction for murder. The applicant was convicted by the High Court on **4 September 2013** in *Regina v Mani [2013] SBHC 129 (HCSI-CRC 47 of 2011)*. His conviction was upheld by the Court of Appeal on **9 May 2014** in *Mani v Regina (No. 1) [2014] SBCA 12 (SICOA-CRAC 25 of 2013)* ("*Mani 1*"), and again by a differently constituted Court of Appeal on **8 July 2022** in *Mani v R (No. 2) [2022] SBCA 5 (SICOA-CRAC 25 of 2021)* ("*Mani 2*").

26. The applicant now seeks **special leave** for yet another Court of Appeal, differently constituted, to reopen and determine anew the issues that were determined in *Mani 1* and *Mani 2*.

Notice of Application for Special Leave

27. The applicant advances five principal grounds as set out in the Notice of Application for Special Leave:

    1. The Court of Appeal in its respective judgments erroneously and contrary to law failed to determine according to law the grounds of appeal that raised errors of law. In particular, the numbers 1 to 4 of the grounds of appeal raised in Mani v Regina (no. 1) (2014) SBCA 12; SICOA-CRAC 25 of 2013.

    2. The Court of Appeal as respectively constituted and mentioned above had abdicated its duty as a Court Appeal by its failure to deal with the trial of the applicant fairly according to law as guaranteed by some of the composite rights of a "fair trial" pursuant to section 10(1) of the Constitution.

    3. The Court of Appeal in Mani v R (no. 2) [2022] SBCA 5; SICOA-CRAC 25 of 2021 erred in law when it held that "...jurisdiction to grant leave to reopen an appeal ... [must be by authority] of statute".

    4. The Court of Appeal in Mani v. R (no. 2) [20221 SBCA 5; SICOA-CRAC 25 of 2021 erred in law in failing to take into account the unchallenged representations of Counsel in the written submissions pertaining to delay.

    5. By its servants and agents, the Court of Appeal in Mani v Regina (no. 1) [2014] SBCA 12; SICOA-CRAC 25 of 2013 and Mani v R (no. 2) [2022]

SBCA 5; SICOA-CRAC 25 of 2021 erred in law in failing to allow parties to have access to the audio recorded transcripts of the trial which was the only complete transcript available.

The applicant/appellant seeks the following orders:

(1) That special leave be granted to reopen and determine the above grounds of appeal by a newly constituted Court of Appeal comprising none of the judges who constituted the previous Court of Appeal in this matter.

(2) That the merits of the grounds of appeal be determined *instantia* together with the question of special leave.

Grounds of Application

28. Those grounds can be summarised as follows:

1. That the Court of Appeal in *Mani 1* failed to determine errors of law raised in grounds I–4 of that appeal;

2. That both Courts of Appeal failed to ensure a fair trial as required under section 10(I) of the Constitution;

3. That the Court in *Mani 2* erred in law in holding that the jurisdiction to reopen a concluded appeal must be conferred by statute;

4. That *Mani 2* failed to consider unchallenged submissions on delay; and

5. That both Courts of Appeal erred in not allowing access to the audio-recorded transcript of the trial.

Applicable Legal Principles.

29. The issues raised are not new. They were carefully considered by this Court in *Mani 2*, where it was held that **the Court of Appeal has no inherent jurisdiction to reopen or rehear a concluded appeal**, unless such power is expressly conferred by statute. There is nothing further to add to this issue.

30. The Court in *Mani 2* reviewed the **Court of Appeal Act (Cap 6)** and the **Court of Appeal Rules**, and concluded that these instruments contain **no provision** authorising the Court to reopen an appeal that has already been finally determined.

31. That conclusion accords with well-established **Commonwealth authority**:

(a) In **R v Smith [2003] EWCA Crim 283**, the Court of Appeal reaffirmed the common law principle of *functus officio*. This means that once a court has delivered a final judgment, it has fulfilled its purpose (*functus officio*) and its authority over that case is exhausted. It cannot revisit or alter its own decision on the merits, unless a statutory exception applies.

The case clarified the finality of decisions in the criminal appellate process and the limited circumstances under which a matter can be reopened, particularly in light of the **Criminal Appeal Act 1968 (UK), section 31A.**

(b) In **DJL v Central Authority (2000) 201 CLR 226**, the High Court of Australia emphasised that the principle of *finality of litigation* is fundamental to the administration of justice and to public confidence in the judicial system. It reaffirmed the crucial principle of finality in litigation, determining that a court cannot reopen and set aside its own perfected final orders. This decision underscored that the power to alter a final judgment typically rests with a higher appellate court, not the court that made the order, reinforcing that litigation must come to a definite end.

(c) In **R v Yasmin [2018] NZCA 276**, the New Zealand Court of Appeal reaffirmed that there is *no general inherent jurisdiction* to reopen concluded criminal appeals and that only legislative authority (such as s406 of the Crimes Act 1961) can confer such power.

32. The Court in *Mani 2* thus held that **the principle of finality** applies equally in Solomon Islands. The Court noted that judicial resources are finite, and justice requires that litigation must come to an end. Final appellate determinations cannot be re-litigated except by means of statutory review or constitutional remedy.

33. The Court also observed that, even if errors were alleged in the prior decisions, those matters cannot vest in this Court a jurisdiction it does not possess. A Court cannot expand its own jurisdiction by consent, discretion, or fairness.

Discussion

34. Notwithstanding the clear findings of this Court in *Mani 2*, the appellant has once again filed a further application, seeking to have his conviction reconsidered before yet another differently constituted Court of Appeal.

35. The application is framed as one invoking the Court's "inherent jurisdiction" to prevent injustice. However, the substance of the application reveals that it raises no new ground, introduces no fresh evidence, and discloses no error of law or procedure that has not already been considered.

36. The central issue before this Court is whether it possesses jurisdiction to entertain yet another appeal by the appellant against his conviction for murder, and, if so, whether this application should properly be entertained in light of the earlier decisions of this Court in *Mani 1* and *Mani 2*.

37. Applying these principles referred to above, this Court finds that the present application is **identical in substance** to the application determined in *Mani 2*.

38. The arguments now advanced — that earlier Courts failed to determine all grounds of appeal or to ensure a fair trial — were squarely raised and addressed in both *Mani 1* and *Mani 2*. The record shows that the Court in *Mani 1* gave full consideration to the appeal grounds, including alleged legal and procedural errors, and affirmed the safety of the conviction. The present application introduces no fresh evidence, nor any new point of law or fact.

39. The subsequent attempt to reopen that judgment in *Mani 2* was expressly dismissed on the basis that this Court lacked jurisdiction. That holding was clear, reasoned, and conclusive.

40. We do not need to repeat what was said by this Court in paragraphs 24 – 29 of that judgment. The reasoning is both sound and we concur entirely with what has been stated.

41. The invocation of section 10(1) of the Constitution, which guarantees the right to a fair trial, does not alter the analysis. That right attaches to the *trial process* and to *appeal proceedings* conducted according to law, not to repetitive attempts to relitigate matters already finally adjudicated.

42. Alleged deficiencies in access to trial transcripts were also canvassed in the earlier appeals. They provide no basis for reopening a final appellate decision.

43. The applicant's reliance on "special leave" language cannot overcome the fundamental jurisdictional bar. As *Mani 2* correctly held, the **Court is functus officio** once it has handed down its judgment and perfected its orders.

44. The proper avenue, if any constitutional grievance remains, lies in proceedings commenced under the **Constitution**, not through an application inviting this Court to revisit its own final judgments.

The Doctrine of Finality.

45. We wish to touch on this important doctrine briefly as it applies to the circumstances of this application. The doctrine of finality, firmly embedded in our jurisprudence, requires that there be an end to litigation. As observed in *Johnson v Gore Wood & Co* [2002] 2 AC 1 at 31, Lord Bingham noted that "*the public interest in the finality of litigation is fundamental to the rule of law and to the proper administration of justice.*"

Endless reopening of concluded proceedings would undermine confidence in the judicial system and diminish respect for the authority of final judgments.

46. That principle applies with equal force in the criminal context. In *R v Smith (Wallace Duncan)* [2004] EWCA Crim 631, the English Court of Appeal reiterated that "*the courts must not allow the appellate process to become a mechanism for repetitive or collateral attacks upon a conviction that has already been upheld.*" Similarly, in *R v Chard* [1984] 1 WLR 1216, it was held that successive appeals, absent fresh evidence or exceptional circumstances, constitute an abuse of process. The House of Lords took the opportunity to reiterate **the principle of finality** that this seeks to prevent repeated attempts to challenge a verdict, ensuring justice is conclusive, while **the principle of justice** requires that a conviction must be safe and should be overturned if **new, credible evidence suggests it is not**. *R. v. Chard* confirms that a properly referred case, supported by new evidence, is not an abuse of process. The referral balances the need for finality with the need to prevent miscarriages of justice.

47. The principle that there must be an end to litigation was also firmly stated in *Connelly v DPP* [1964] AC 1254, where Lord Devlin observed that "*the courts must be vigilant to prevent misuse of their procedures in a way that would bring the administration of justice into disrepute.*" To entertain further appeals of this kind would amount to such misuse.

48. In *Connelly v DPP*, Lord Devlin emphasized the court's inherent power to prevent an abuse of its own process, stating that courts have an "*inescapable duty to secure fair treatment for those who come or are brought before them*". His observations supported the principle that a court can stay a prosecution if allowing it to continue would bring the administration of justice into disrepute.

49. This Court therefore reaffirms that while it has an inherent power to intervene to prevent a miscarriage of justice, that power is to be exercised **only in the most exceptional of cases — typically where new and compelling evidence has emerged** or where it is demonstrated that the prior proceedings were tainted by such **fundamental error** as to render them void. The present application satisfies neither condition.

50. In substance, the appellant is seeking a further opportunity to persuade this Court to reach a different conclusion on the same evidence and arguments previously advanced. That, in the Court's view, falls squarely within the category of abuse of process. It would be contrary to public policy and the sound administration of justice to permit the continued reopening of settled issues, thereby frustrating the finality of criminal adjudication.

51. The Court is mindful that the right of appeal is a vital component of the criminal justice system and that no person should be deprived of the opportunity to have an alleged miscarriage of justice corrected. Yet that right is not without limit. The appellant has exercised his full right of appeal; his conviction and sentence have been scrutinised on

multiple occasions, and each time the Court has affirmed the soundness of the trial process and verdict.

52. The Court also notes that, through his successive applications, the appellant has had the benefit of legal representation and full opportunity to be heard. His rights under section 10 of the *Constitution* — including the right to a fair hearing — have therefore been duly protected.

53. Accordingly, the Court concludes that this third application is without merit, discloses no arguable ground of appeal, and constitutes an abuse of the process of this Court. It is therefore struck out.

54. The Court further observes that repeated and unmeritorious applications of this nature not only burden the judicial system but also risk diminishing the public's confidence in the finality and authority of the Court's decisions. Future attempts to re-agitate the same conviction or sentence without new or compelling grounds may properly attract a finding of *vexatious conduct* or contemptuous disregard of the Court's process.

Disposition.

55. For the reasons set out above, the Court finds that:

    (a) The application raises no new or exceptional circumstance not already determined;

    (b) The Court has **no jurisdiction** to reopen or rehear its final judgments; and

    (c) The principle of finality in litigation must prevail.

56. Accordingly, the conviction and sentence of life imprisonment imposed by the High Court and affirmed by this Court in *Mani 1* and *Mani 2* shall remain in full force and effect.

57. Further, this Court directs that no further applications of a similar nature will be entertained unless supported by genuinely new and compelling evidence, or by a showing of manifest miscarriage of justice.

Decision.

(1) The **application for special leave to reopen the appeal is therefore dismissed.**

(2) There will be **no order as to costs.**

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Muria P

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Palmer CJ

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Morrison J.A