

IN THE COURT OF APPEAL, FIJI AT SUVA

CRIMINAL APPEAL NO. AAU0004/2000

(High Court Criminal Appeal No. HAA116 of 1999)

BETWEEN:

BEN DANFORD

Appellant

AND:

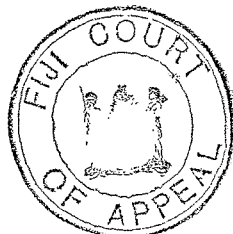
THE STATE

Respondent

NOTICE OF APPEAL OR APPLICATION FOR LEAVE TO APPEAL

1. Ben Danford was discharged by the Magistrates' Court on a charge of possession of dangerous drugs, the Magistrate stopping the case at the end of the prosecution evidence. On appeal to the High Court the Judge set aside the decision and directed that the case should be sent back for trial before another Magistrate.
2. The Court of Appeal Act does not specify a time for appealing such a decision, at least not explicitly. However, giving section 26 a purposive interpretation, I consider the time limit is 30 days.
3. The High Court decision is dated 26 November 1999. The appellant's notice was filed on 3 February 2000, more than 5 weeks out of time. No explanation has been given of the delay, nor any attempt made to advance grounds why time should be extended. Indeed there is no overt application for extension of time; but treating the application for leave as if it included an application to extend the time, I decline to extend time, in the absence of any grounds.
4. Acting under s.35 of the Act, I dismiss the application for leave, and I also dismiss the appeal.

Dated at Suva this 12 October 2001.



~~Thomas Eichelbaum~~

Thomas Eichelbaum
Justice of Appeal