

IN THE COURT OF APPEAL, FIJI ISLANDS  
AT SUVA

CRIMINAL APPEAL NO. AAU0028 OF 2003S  
(High Court Criminal Action No, HAC007 of 2003S)

BETWEEN:

VILIAME TAMANI

Applicant

AND:

THE STATE

Respondent

APPLICATION FOR LEAVE TO APPEAL AGAINST CONVICTION

[1] The applicant pleaded guilty in the Magistrates' Court to nine counts of indecent assault, rape and carnal knowledge. In each case the complainant was the applicant's daughter. He was committed to the High Court for sentence. On 4 June 2003 Sharmeem J sentenced him to 11 years imprisonment on the charge of rape, 2 years imprisonment on the charges of indecent assault, and 3 years imprisonment on the charges of carnal knowledge of his daughter, all the sentences to be concurrent. On 17 November, 2003 the applicant filed an application for leave to appeal against his conviction and sentence. He also sought bail pending appeal. The grounds on which he seeks to appeal against his conviction on charges to which he pleaded guilty are not immediately apparent from his application.

[2] Any application for leave to appeal is required to be filed within 30 days of the sentence. In this case the application was filed five months after sentence. It was therefore four months out of time.

[3] However, despite the period of delay, in view of the seriousness of the charges and the penalty imposed, I am satisfied that, pursuant to s 35 (1) (b) of the Court of Appeal Act, the time for applying for leave to appeal should be extended to 17 November 2003.

[4] The applicant's application for bail pending appeal is refused.

[5] In his letter containing the application for leave to appeal out of time, the applicant asks this court to assign him legal aid. This court has no jurisdiction to grant legal aid. Any application for legal aid should be made to the Legal Aid Commission.

[6] For the same reasons that persuade me to extend the time to apply for leave to appeal, I also recommend, pursuant to s 35 (1) (f), that legal aid be granted to the applicant. Not only will that assist the Court in determining the appeal against sentence, it should also enable the applicant's appeal against conviction to be clarified, or perhaps discontinued.

Dated at Suva this 24<sup>th</sup> November 2003



A handwritten signature in black ink, which appears to read "Tompkins".

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Tompkins JA