

IN THE COURT OF APPEAL, FIJI AT SUVA

CRIMINAL APPEAL NO. AAU0022 OF 2001S
(High Court Criminal Appeal No. HAA0127 of 1999L)

BETWEEN: NOA TUBAKA *Applicant*

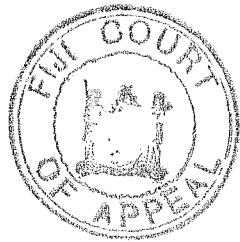
AND: THE STATE *Respondent*

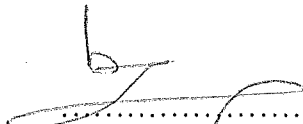
APPLICATION FOR LEAVE TO APPEAL OUT OF TIME AND LEAVE
TO APPEAL AGAINST SENTENCE

1. On 2 November 1998, the Applicant was convicted for escaping from lawful custody by the Magistrates' Court, Nadi, and sentenced to twelve(12) months imprisonment, consecutive to a term of 10 years 9 months that he was serving.
2. The Applicant appealed against the sentence to the High Court and on 8 February 2000, the High Court (Townesley J.) summarily dismissed the appeal.
3. By letter dated 6 August 2001, which reached the Registry on 28 August 2001, the Applicant gave notice of appeal against the Order of the High Court. The appeal is out of time by almost three years and the Applicant has not given any reasons for this inordinate delay in filing his appeal.

4. Furthermore, this is a second appeal. The appeal is limited to errors of law. No errors of law are alleged. There is nothing unlawful about the sentence.
5. Application for leave to appeal out of time is granted, and the appeal is dismissed under Section 35(2) of the Court of Appeal Act, as amended.

Dated at Suva this 13th March 2003.




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Jai Ram Reddy
President