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IN THE COURT OF APPEAL, FIJI ISLANDS  
ON APPEAL FROM THE HIGH COURT OF FIJI

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CRIMINAL APPEAL NO. AAU0036 OF 2004S  
(High Court Criminal Action No. HAC0016\ 2002L)

BETWEEN:

NAVAU LEBOBO

*Appellant*

AND:

THE STATE

*Respondent*

APPLICATION FOR LEAVE TO APPEAL OUT OF TIME

This is an application for leave to appeal out of time.

Following a trial, the applicant was convicted on 6 April 2004 of murder, robbery with violence and rape. He was sentenced on 7 April 2004 to life imprisonment for murder with a recommendation that he serve a minimum of 20 years, 13 years for the rape and 10 years for the robbery. All were ordered to be served concurrently.

He explains that the reason for the delay in appealing was due to the anguish he felt at the sentence passed by the learned judge. In addition, he was no longer represented and had no access to legal advice. In consequence he had to rely on the advice of other prisoners.

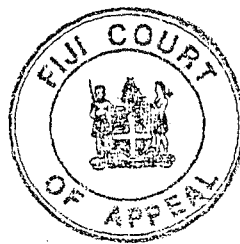
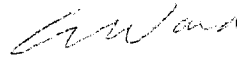
The grounds of appeal against conviction all challenge the findings of fact in relation to the general weight of the evidence, the evidence of identification and the suggestion that the assessors' verdict was unsafe and unsatisfactory and a miscarriage of justice - although the basis for this assertion is not stated.

At the trial, the applicant had been represented by counsel and many of the facts were admitted by the accused. There was no dispute about his presence at the scene of the crime and I can see no possibility that the grounds filed would have any chance of success.

The ground of appeal against sentence is that it was manifestly excessive or wrong in principle.

Clearly the sentence was severe but the facts of the offence were extreme in terms of brutality and the judge referred, when sentencing, to the total lack of remorse on the part of the applicant. The basis upon which the judge calculated the sentence is set out clearly and there is no support for the suggestion it was wrong in principle.

If I felt there was any realistic chance, however slight, of this appeal succeeding, I would have granted leave to appeal out of time. However, I am sure it cannot succeed and leave is refused.



[Justice Gordon Ward]  
President  
FIJI COURT OF APPEAL

Dated at Suva this day of Monday 20 December 2004.