

IN THE FIJI COURT OF APPEAL

CRIMINAL JURISDICTION

CRIMINAL APPEAL CASE NO: AAU 0057 OF 2008

BETWEEN

JOTAME NACILI

Applicant

AND

THE STATE

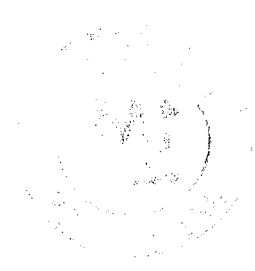
Respondent

SECTION 35 (1)&(2) COURT OF APPEAL ACT DETERMINATION

1. In reviewing the application by the applicant, JOTAME NACILI in this matter I noted that this a second appeal. It is therefore governed by section 22(1) of the Court of Appeal Act. I have come to the conclusion that this application for leave to appeal be dismissed because it raises no issues of law as required by section 22(1) of the Court of Appeal Act Cap 16.
2. There are several new issues raised in this second appeal, such as the equivocality of the applicant's guilty plea, which were not raised in the first appeal before the High Court and is now raised for the first time without leave of this court.
3. The applicant now also raises for the first time the issues of lack of proper identification and the fairness of the police investigation procedure. These issues if they were genuine should have been raised at the trial proper in the Magistrates Court. It is evident that these were introduced as appeal ground at this stage to raises issues of law, without which there was none. They are misguided grounds for seeking leave to appeal at this stage.

4. I therefore order that leave to appeal is refused and appeal is dismissed.


Isikeli Mataitoga
A Justice of Appeal
Hon Justice I. Mataitoga
HIGH COURT OF FIJI
at Suva



At Suva

12 June 2008.