

**IN THE COURT OF APPEAL**  
**[On Appeal From The High Court]**

**CRIMINAL APPEAL NO: AAU0035 OF 2012**  
**(High Court Case No: HAA 49 of 2010)**

**BETWEEN** : **MANASA VAKASOQO**  
*Appellant*

**AND** : **THE STATE**  
*Respondent*

**Coram** : Goundar JA

**Counsel** : Mr. J. Savou for the Appellant  
Mr. Y. Prasad for the Respondent

**Date of Hearing** : 16<sup>th</sup> May 2014

**Date of Ruling** : 2<sup>nd</sup> June 2014

**RULING**

- [1] This is an appeal against a judgment of the High Court in its appellate jurisdiction. Following a trial in the Magistrates' Court, the appellant was convicted of rape and sentenced to 8 years' imprisonment. The appellant appealed against his conviction to the High Court on grounds of law and fact. On 23 March 2012, the High Court upheld the conviction and dismissed the appeal.
- [2] On 10 May 2012, the appellant filed this appeal in person. The appeal is out of time by about two weeks. Since the length of delay is not significant, I extend the time of filing to 10 May 2012.
- [3] The real issue is whether the appellant has a right of appeal on the grounds he has advanced through his counsel. The grounds of appeal are:

“Ground One

The Learned Judge erred in law and in fact when he did not make an independent assessment of the evidence of the State witnesses in relation to the evidence that a marble was inside the Appellant’s penis and also the missing tooth which goes to the honest mistake of identity.

Ground Two

The Learned Judge erred in law and in fact when he did not consider the unfairness of the identity parade given the fact that the complainant had seen the accused and his vehicle even before the parade.”

[4] This appeal is governed by section 22 of the Court of Appeal Act. Section 22 states:

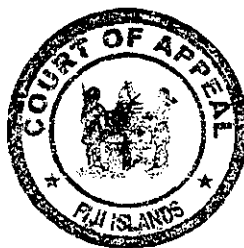
“(1) Any party to an appeal from a magistrate’s court to the [High Court] may appeal, under this Part, against the decision of the [High Court] in such appellate jurisdiction to the Court of Appeal on any ground of appeal which involves a question of law only ...:


[5] The appellant has categorized his grounds as grounds of mixed law and fact. Through this appeal he is seeking a review of the identification evidence that formed the basis upon which he was convicted. The learned High Court judge reviewed the entire evidence and found the conviction was supported by reliable identification evidence.

[6] The grounds of appeal clearly do not raise a question of law only. Section 35(2) gives a single judge power to dismiss an appeal that is bound to fail because there is no right of appeal. In this case, I am satisfied that the appellant has no right of appeal on the grounds advanced by him. The appeal is bound to fail.

Result

[7] Appeal dismissed under section 35(2) of the Court of Appeal Act.



  
 .....  
 Hon. Justice D. Goundar  
**JUSTICE OF APPEAL**