

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

CRIMINAL APPEAL AAU 136 of 2014  
(High Court HAA 21 of 2014[Ltka])  
(Magistrates Court 261 of 2014 at Ba)

BETWEEN : POASA MANAKIWAI *Appellant*

AND : THE STATE *Respondent*

Coram : Calanchini P

Counsel : No appearance for the Appellant  
Mr L Burney for the Respondent

Date of Hearing : 4 June 2018

Date of Ruling : 6 July 2018

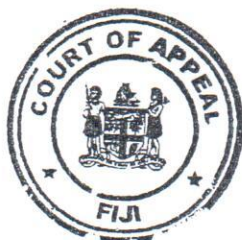
RULING


[1] The appellant was charged with one count of robbery contrary to section 310 (1) (a) (1) of the Crimes Act 2009. He pleaded guilty in the Magistrates Court at Ba. On 21 May 2014 he was sentenced to a term of imprisonment of 4 years. The Magistrates Court ordered that the sentence of 4 years imprisonment be served consecutively to the sentence then being served by appellant.

- [2] The appellant appealed to the High Court against sentence on the grounds that (1) the sentence was harsh and excessive and (2) the sentence should have been ordered to be served concurrently with the existing sentence. In a written judgment pronounced on 29 September 2014, the High Court allowed the appeal on ground 2 and ordered that the sentence imposed on 21 May 2014 be served concurrently with the existing sentence and ordered that the appellant serve a non-parole term of 3 years and 6 months with effect from 21 May 2014.
- [3] The appellant subsequently filed a notice of appeal dated 15 December 2014 against the decision of the High Court pursuant to section 22 of the Court of Appeal Act 1949 (the Act). Under section 22(1A) the jurisdiction of the Court of Appeal to hear an appeal from the High Court exercising its appellate jurisdiction is limited, in respect of sentence appeals to grounds that (1) claim the sentence was an unlawful sentence or was passed in consequence of an error of law or (2) claim that the High Court imposed an immediate custodial sentence in substitution for a non-custodial sentence. The only issue raised by the appellant was that the High Court had erred in dismissing his appeal on the ground that the sentence was harsh and excessive.
- [4] When the appeal was listed for callover to fix a date for the hearing of the appeal, the Court was informed that the appellant had been discharged having served his sentence. He had not provided a forwarding residential or postal address for the service of notices.
- [5] Under the circumstances the appeal is dismissed under section 35(2) of the Act on the basis that there was no right to appeal under section 22(1A) of the Act.

Orders:

*Appeal against sentence is dismissed.*



  
Hon Mr Justice W. D. Calanchini  
PRESIDENT, COURT OF APPEAL