

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

Civil Appeal No. ABU 086 of 2020
(HBA 23 of 2019)

BETWEEN : FILIPE BABA

Appellant

AND : 1. ATTORNEY GENERAL OF FIJI
2. COMMISSIONER OF CORRECTIONS
3. FIJI HUMAN RIGHTS COMMISSION (AMICUS CURIE)

Respondents

Coram : Almeida Guneratne, JA

Counsel : Appellant appearing in person
: Ms. N. Ali for the 1st & 2nd Respondent
: Mr. R. Vananalagi for the 3rd Respondent

Dates of Mention : 2nd February, 2021

Date of Ruling : 12th February, 2021

ORDER

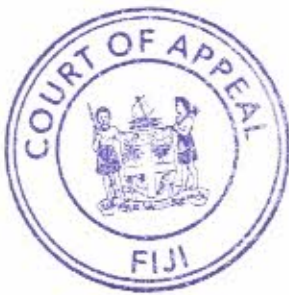
[1] When this matter came before me for mention, the Appellant appearing in person submitted that he wished to withdraw the appeal he had filed against the judgment of the High Court.

- [2] However, through an abundance of caution (since the Appellant was being produced in Court from a Correction Centre, I prevailed on the Appellant to tender some document, preferably an affidavit stating his request to withdraw the said Appeal in regard to which I postponed making an order giving time to the Appellant for that purpose till 9th February, 2021.
- [3] Even as at today (10th February, 2021) as I sit down to make my orders the Appellant apparently has not responded to the directive I made as referred to in paragraph (2) above. Perhaps he had some difficulty since he is being kept at a Correction Centre. In fact, it was brought to my notice by the Registry that there was some difficulty in serving Court documents on such a person and being produced in Court. That is what the Record revealed.
- [4] However, I took a cue from the analogy of the applicable Practice Direction in regard to withdrawal of pending criminal appeals as to convictions and sentences (although there was no need for me to have done so.)
- [5] However, on the basis of what I have recapped above, I found that there was no reason for this matter to be prolonged for I felt that this Court has acted in the best interests of the Appellant.
- [6] Nevertheless, I decided to make this Ruling or deliver the ensuing order in open Court with notice to the Appellant through the Correction Centre and notice on the Respondents with the rider that the Correction Centre will not be required to produce the Appellant in Court on 12th February, 2021.

Orders of Court

1. The Application of the Appellant to withdraw the appeal on record is allowed on the basis of the oral application made by the Appellant in person on 2nd February, 2021 who was produced by the authorities of the Correction Centre on that occasion.

2. Accordingly, the Appeal on Record is dismissed under Section 20 (1) (h) of the Court of Appeal Act (Cap. 12)
3. I make no order as to costs.



Almeida Guneratne

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Almeida Guneratne
JUSTICE OF APPEAL