

IN THE COURT OF APPEAL, FIJI
[On Appeal from the High Court]

CRIMINAL APPEAL NO. AAU 002 of 2022
[In the High Court at Suva Case No. HAC 355 of 2012]

BETWEEN : **MANOA VAKAUSA** *Appellant*

AND : **THE STATE** *Respondent*

Coram : **Prematilaka, RJA**

Counsel : **Mr. K. R. Prasad for the Appellant**
: **Mr. M. Vosawale for the Respondent**

Date of Mention : **19 June 2023**

Date of Ruling : **20 June 2023**

RULING

- [1] The notice of appeal had been filed on 26 January 2022 by the Legal Aid Commission (LAC) only against conviction entered by Suva High Court on 20 June 2013 upon the appellant's plea of guilty. The appellant had been sentenced on 15 July 2013 to 10 years of imprisonment with a non-parole period of 08 years.
- [2] The appellant's appeal against conviction is late by about 08 years and 06 months and no application for enlargement of time had been lodged.
- [3] The appellant had tendered an application to abandon his appeal in Form 3 on 28 January 2022.
- [4] The appeal was mentioned for the first time in this court on 01 June 2023 and the appellant was absent and the court was informed that he had served his sentence and

released in November 2022. Due to the absence of the appellant, his application to abandon the appeal could not be considered.


[5] When the matter came up on 19 June 2023, the appellant was again absent. The counsel for the LAC informed the court that they had contacted the appellant's mother over the phone and she had informed them that the appellant was supposed to be in Suva but she was not aware of his exact whereabouts. The LAC does not have any other contact details of the appellant.

[6] In the circumstances, it is clear that the appellant is not interested in prosecuting his appeal with due diligence. As result, it should now be considered as frivolous or vexatious and is liable to be dismissed under section 35(2) of the Court of Appeal Act.

Order of the Court:

1. Appeal is dismissed in terms of section 35(2) of the Court of Appeal Act.




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Hon. Mr Justice C. Prematilaka
RESIDENT JUSTICE OF APPEAL

Solicitors:

Legal Aid Commission for the Appellant
Office for the Director of Public Prosecutions for the Respondent