

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

CRIMINAL APPEAL NO. AAU 52 of 2022
[In the High Court at Suva Case No. HAC 380 of 2019]

BETWEEN : **TAITO SOSOWALE**

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

Coram : **Prematilaka, RJA**

Counsel : **Appellant in person**
Mr. M. Vosawale for the Respondent

Date of Hearing : **09 January 2024**

Date of Ruling : **10 January 2024**

RULING

- [1] The appellant had been charged in the High Court at Suva with one count of aggravated robbery contrary to section 311 (1) (a) of the Crimes Act 2009. The Prosecution alleged that on 18 November 2019, the appellant in the company of others, robbed Subash Dutt of a Samsung J2 mobile phone, \$50.00 cash and a stainless steel container.
- [2] After trial, the trial judge had convicted the appellant and sentenced him on 08 July 2020 to 03 years imprisonment, one year of which was to be served in custody, with the remaining 02 years suspended for 03 years.
- [3] The appellant had appealed against his conviction in a timely manner.
- [4] However, the appellant never appeared before this court to prosecute his appeal on any of the mention dates *i.e.* 15 June 2023, 14 August 2023, 18 October 2023, 12

December 2023 and 09 January 2024. Fiji Corrections Service had informed the Court of Appeal Registry on 21 June 2023 that the appellant had been released from prison on 07 March 2023. All efforts to serve notice on the appellant to his address at Jittu Estate, Raiwaqa had failed as he had not been found at that address.


[5] The respondent has filed an affidavit and *inter alia* made an application that the appeal be summarily dismissed.

[6] In the above circumstances, I am satisfied that the appellant has not shown due diligence to prosecute his appeal and his appeal has become frivolous.

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:

Appellant in person

Office of the Director of Public Prosecution for the Respondent