

LIVAE MEQO-v-REGINA

HIGH COURT OF SOLOMON ISLANDS
(Mwanasalua, J.)

Criminal Appeal Case No. 18 of 2006

Hearing: 23rd August 2006

Ruling: 25th August 2006

M. McColm for the Crown

C Baker for the Applicant

RULING

Mwanasalua, J: This is an application for leave to appeal against the judgment delivered by Brown, PJ. On 27 March 2006 convicting the Applicant of two counts of murder. This application was lodged under rule 25 of the court of appeal Rules 1983 (L.N. 66/83). I sat to hear this application for leave in my capacity an ex officio judge of the Court of Appeal under section 85(2)(b) of the Constitution.

Criminal Case No. 67 of 2004 was heard Brown, PJ. on 9 May – 1 August 2005. In this case two men were shot dead whilst they were traveling on a boat in the Western Province on 22nd February 2002. The Applicant was charged with the murder of these men under section 200 of the Penal Code. The Applicant was convicted for the murder of the men on 27 March 2006 in Honiara and was sentenced to serve life imprisonment. EM

The Applicant lodged this application for leave to appeal against his conviction out of time on 23 July 2006. The usual time for appeal to the court of Appeal against conviction is thirty days. That period begins from the date of conviction. In this case, that thirty days period began to run as from 27 March 2006. The Applicant lodged this application eighty-seven days after the thirty days period in which to appeal had lapsed. The Crown did not oppose the application but basically supported it.

The guilty verdict against the Applicant was pronounced by the trial judge on 27 March 2006. Immediately following that verdict the Applicant was taken back to Rove Prison. The Counsel for the Applicant was involved in the defence of a different defendant in another criminal case in the High Court at the time of the verdict. In April 2006, in side the appeal period, the Counsel for the Applicant took ill whilst in Australia and was hospitalised for seven days, followed by several weeks of recuperation. During the absence of Counsel for the Applicant in Australia, riots took place in Honiara. As a result

of the riots and civil unrest, the hotel in which the Counsel for the Applicant was accommodated was destroyed. His material possessions were either burned or looted. Counsel for the Applicant sought temporary accommodation when he returned to Honiara. Upon finding temporary accommodation, Counsel for the Applicant almost continuously involved in trial work or preparation work for other clients which prevented him from filing Notice of Appeal within the time limit of thirty days.

In his Notice of Appeal, the Applicant inter alia, alleged that the conviction was unsafe and unsatisfactory; that the trial judge relied upon erroneous principles and irrelevant facts in arriving at the verdict; and the trial judge failed to properly consider the defence case.

I have considered the reasons giving rise to the difficulty by the Applicant's Counsel in not being able to file Notice of Appeal within time on this case. I do not think any prejudice would be caused to the Crown. I will grant leave for the Applicant to file Notice of Appeal out of time. I order accordingly.

Francis Mwanosalua
Puisne Judge