

IN THE COURT OF APPEAL
THE REPUBLIC OF VANUATU
(Criminal Appellate Jurisdiction)

Criminal Appeal Case No. 07 of 2015

BETWEEN: NAYES SIPLY
Appellant

AND: PUBLIC PROSECUTOR
Respondent

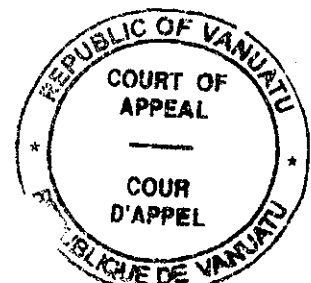
Coram: *Hon. Chief Justice Vincent Lunabek*
Hon. Justice John von Doussa
Hon. Justice Raynor Asher
Hon. Justice Daniel Fatiaki
Hon. Justice Dudley Aru
Hon. Justice Stephen Harrop
Hon. Justice David Chetwynd

Counsel: *Mr Roger Tevi for Appellant*
Mrs Losanna Matariki for the Respondent

Date of Hearing: *Tuesday 10 November 2015*
Date of Memorandum: *Friday 20 November 2015*

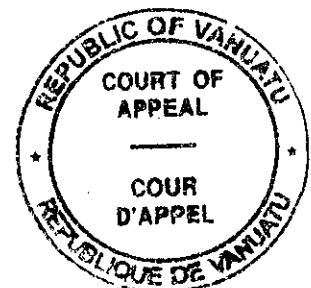
MEMORANDUM

1. This appeal was listed for hearing and determination by this Court during the November 2015 session. The matter was called on for argument and heard on 10 November and judgment was to be delivered on 20 November 2015.
2. On 19th November 2015 the Appellant filed an application to suspend proceedings and recall the appeal case. Documents filed by him in support of that application indicate that he



wishes to submit additional grounds of appeal and to make a further argument. The Appellant foreshadows that the new grounds of appeal will include an allegation that there is fresh evidence which should be considered, and that his trial miscarried because of the incompetence of his counsel.

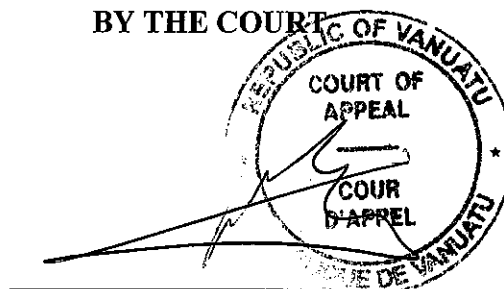
3. The information filed by the Appellant in support of this application is insufficient for the Court to reach a conclusion on the likely merits of the application, but the issues raised by the application are such that we consider the Appellant should have the opportunity to obtain fresh legal representation if he wishes to file any additional sworn evidence that has in support of his application, and be given the opportunity to present argument in support of it to the Court of Appeal.
4. We propose therefore to adjourn the matter, and judgment on the appeal will not be delivered today.
5. The appeal is stood over on the condition that the Appellant attends to the following matters not later than 31st January 2016:-
 - 1) Instruct his present lawyer forthwith to file a notice of ceasing to act.
 - 2) File a notice to advise the Court and the Public Prosecutor either that he henceforth will be representing himself, or that a new lawyer is acting for him. In the latter event it is the new lawyer who must file a notice of commencing to act.
 - 3) Amended grounds of appeal must be filed.
 - 4) Any additional material relied upon by the Appellant must be verified by sworn statement.



- 5) If the Appellant intends to raise the incompetence of his trial lawyer as a ground for appeal, particulars of that incompetence must be filed, and the Appellant must waive legal professional privilege so that the Public Prosecutor is able to obtain a statement from the former lawyer, if the Public Prosecutor wishes so to do. The Appellant must appreciate that if incompetence of his former lawyer is alleged, the former lawyer may be required to give evidence concerning his conduct of the Appellant's defence.
6. On the above conditions the matter is stood over until the next session of the Court of Appeal in 2016.

DATED at Port Vila this 20th day of November, 2015

BY THE COURT



Vincent LUNABEK
Chief Justice