

IN THE HIGH COURT OF THE FIJI ISLANDS

MISCELLANEOUS JURISDICTION

AT SUVA

CRIMINAL MISCELLANEOUS CASE NO: HAM 0133 OF 2008

BETWEEN

MACIU TAMANIBOLA

Applicant

AND

THE STATE

Respondent

Applicant in Person

Ms Laisa Lagilevu for the State

Date of Ruling: 23 January 2009.

RULING

1. Maciu Tamanibola, you have submitted and application for leave to appeal out of time against conviction in Magistrate Court Criminal case No: 1509 of 2007. You did not inform the court when your leave application was first called on 12 January 2009 that you had already appealed against your sentence and it was dismissed following a hearing before Madam Justice Shameem in HAA 113 of 2007. A written ruling was delivered on 22 February 2008, in which she found no merit in your appeal against sentence of 9 years imprisonment. She also reviewed the circumstances in which you pleaded guilty following your confessions.

2. You now seek to appeal out of time against sentence despite the fact that you had pleaded guilty to the one count of rape you were charged with. Apart from being out of time in your appeal, you are also statute barred from appealing against conviction after pleading guilty in the magistrates' court: section 309 of the Criminal Procedure Code Cap 21. There is no prospect of your appeal succeeding if leave were to be granted in the circumstances of your case.
3. What you have indulged yourself with is a complete waste of the court's time and resources.
4. It is hereby ordered that your Leave to appeal be dismissed as having no merit.

Isikeli Mataitoga

JUDGE

At Suva

23 January 2009