

IN THE COURT OF APPEAL, FIJI
ON APPEAL FROM THE HIGH COURT OF FIJI

CRIMINAL APPEAL AAU 16 of 2009
(High Court HAC 43 of 2008)

BETWEEN : HARRY ANDERSON *Appellant*

AND : THE STATE *Respondent*

Coram : Calanchini P

Counsel : No appearance for the Appellant
Mr M Vosawale for the Respondent

Date of Hearing : 31 January 2018

Date of Ruling : 19 February 2018

RULING

[1] The Appellant applied for an enlargement of time to file an application for leave to appeal against sentence. The application was dated 6 April 2009 but was not received by the Registry until 27 April 2009. The Appellant sought to challenge the imposition of 2 years imprisonment that was ordered to be served consecutively to an existing sentence of 2 years imprisonment. The grounds of appeal raised the issue of parity of sentence on

the basis that his co-accused had been sentenced to 18 months imprisonment for the same offence to run concurrently with an existing sentence.

- [2] Although receipt of the application was acknowledged by the Registry and the file requested from the High Court, for reasons that are not apparent from the file, the application was not brought to the Court's attention until early in 2018.
- [3] When the application was listed for mention on 31 January 2018 the Court was informed that the Appellant had served his sentence and had been discharged. The Appellant had not provided the Corrections Department nor the Office of the Director of Public Prosecutions with an address for service.
- [4] As a result the appeal is dismissed under section 35(2) of the Court of Appeal Act 1935 on the basis that it must necessarily be regarded as vexatious.

Orders:

Appeal against sentence is dismissed.



W. Calanchini

Hon Mr Justice Calanchini
President, Court of Appeal