

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

CRIMINAL APPEAL AAU Misc. 29 of 2010
(High Court HAC 83 of 2010)

BETWEEN : SIMELI BILI NAISUA
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] On 25 October 2010 the Appellant filed an application for leave to appeal the decision of the High Court refusing his application for bail pending trial. The Appellant had been charged with one count of rape that was alleged to have been committed in April 2010.

- [2] Before the application for leave could be listed for mention before a judge of the Court, the trial commenced on 14 December 2010 and was completed the following day. Following unanimous opinions of guilty by the assessors the trial Judge convicted the Appellant and subsequently sentenced him on 8 February 2011 to a term of imprisonment of 15 years with a non-parole term of 11 years.
- [3] For reasons that are not apparent from the file the matter was not called before the Court until 31 January 2018. On that day the Court was informed by Counsel for the State that the Appellant had passed away on 22 February 2017 as a serving prisoner.
- [4] The Appellant's appeal filed pursuant to section 21(3) of the Court of Appeal Act 1935 is dismissed under section 35(2) of the Act.



W. Calanchini
HON MR JUSTICE CALANCHINI
PRESIDENT, COURT OF APPEAL