

IN THE COURT OF APPEAL, FIJI  
ON APPEAL FROM THE MAGISTRATES COURT  
*Exercising extended jurisdiction*

CRIMINAL APPEAL: AAU 0055 OF 2014  
(Magistrates Court 723/2011 at Labasa)

BETWEEN : MASIMATA ROKODOI

*Appellant*

AND : THE STATE

*Respondent*

Coram : Calanchini P

Counsel : No appearance for the Appellant  
Ms P Madanavosa for the Respondent

Date of Hearing : 24 April 2018

Date of Ruling : 31 May 2018

RULING

- [1] The appellant was convicted on his plea of guilty by the Magistrates Court at Labasa exercising extended jurisdiction of the High Court on one count of aggravated robbery.

On 30 July 2012 the appellant was sentenced to a term of imprisonment of 5 years with a non-parole term of 4 years.

[2] On 18 June 2013 the appellant filed a notice of appeal against sentence that was out of time by about 10 months. The appellant also filed an application for an enlargement of time and a supporting affidavit at the same time. In a ruling delivered on 13 March 2015 a judge of the Court granted an enlargement of time and leave to appeal against sentence on ground (3) relating to the inclusion as an aggravating factor an element of the offence itself and on ground (4) relating to the failure to discount separately for the plea of guilty. At the leave hearing the appellant was represented by the Legal Aid Commission.

[3] In accordance with the practice under Rule 44 of the Court of Appeal Rules, the responsibility for the preparation of the appeal record when an appellant is legally represented rests on the legal practitioner acting for the appellant. It was therefore the responsibility of the Legal Aid Commission to prepare the appeal record once leave to appeal had been granted. The record was filed by the Commission on 6 July 2016. By the time the appeal was listed for callover on 27 March 2018 the appellant had been discharged from prison. Under those circumstances the appeal is dismissed under section 35(2) of the Court of Appeal Act.

Orders:

*Appeal against sentence is dismissed.*



*W. Calanchini*  
Hon. Mr. Justice W.D. Calanchini  
**PRESIDENT, COURT OF APPEAL**