

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

CRIMINAL APPEAL NO. AAU0034 OF 2001S
(High Court Criminal Case No.HAA0058 of 2001)

BETWEEN:

JOSEFA BALELOA
PENI TUKAI
SAKIUSA TUKANA
ANARE TOKALAUVERE
TAITO RARASEA
VILIAME KANAENABOGI
NEMANI WAKA

Appellants

AND:

THE STATE

Respondent

Coram:

Reddy J R, President
Eichelbaum, JA
Gallen, JA

Hearing:

Monday, 13th May 2002, Suva

Counsel:

Ms M. Waqavonovono for the Appellants
Mr Gregor Allan for the Respondent

Date of Judgment:

Monday, 13th May 2002

TRANSCRIPT OF ORAL JUDGMENT OF THE COURT

The appellants were each convicted on (among other offences) a count of wrongful confinement under s256 of the Penal Code. On appeal to the High Court the Judge found the charge of wrongful confinement to be defective, as it failed to specify the mens rea element of the offence. The Judge substituted convictions for the lesser offence of wrongful confinement under s256.

The appellants have been granted an extension of time for appealing, and seek to appeal the convictions.

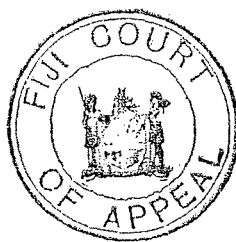
The background and issues are dealt with in greater detail in another judgment delivered today, *Jonetani Sareka v the State*. Counsel for the State accepts that the convictions should be quashed.

In respect of the other convictions arising from the same events the appellants did not submit the court should amend the sentences. Those sentences will stand.

Result

In respect of each appellant -

Appeal allowed; order quashing conviction and sentence for wrongful confinement under s256 of the Penal Code.



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Reddy J R, President

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Eichelbaum, JA

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Gallen, JA

Solicitors

Office of the Director of Legal Aid Commission, Suva for the Appellants
Office of the Director of Public Prosecutions, Suva for the Respondent