

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

CIVIL APPEAL NO. ABU0064 OF 2003S  
(High Court Civil Action No. HBJ 13 of 2003S)

BETWEEN:

VILIAME KUBUNAVONO AND  
FIVE OTHERS

Appellants

AND:

THE STATE  
THE COMMISSIONER OF PRISON  
THE ATTORNEY GENERAL OF FIJI

Respondents

Coram:

Eichelbaum, JA  
Sheppard, JA  
Scott, JA

Hearing:

Tuesday, 13 July 2004, Suva

Counsel:

Mr. I. Fa for the Appellant  
Mr. K. Keteca for the Respondent

Date of Judgment: Tuesday 13 July 2004

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TRANSCRIPT OF ORAL JUDGMENT OF THE COURT

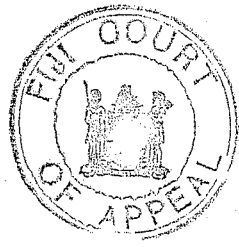
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The Court per Eichelbaum JA:

The respondents have conceded that the appeal must succeed, although for a reason not advanced by the appellants. It is that owing to the absence of a delegation from the Disciplined Services Commission, the Commissioner of Prisons had no legal authority to

"remove any persons" from the Prisons Service. We will make a declaration as sought but do not see any necessity for an order for reinstatement. By consent:

1. Appeal allowed;
2. Orders of Singh J made on 18 September 2003 be set aside;
3. In lieu thereof, make declaration that the decision of the Commissioner of Prisons of 3 March 2003 discharging the Applicants namely Viliame Kubunavono of Sulua Place Lot 168 Cunnigham Stage 4, Pio Rikomai of Sele Road Caubati Housing, Ropate Baleiwaiyevo of Korovau Prison Compound Suva, Meli Tamani of Baulevu Nausori, Emosi Raika of Naboro Prison Compound and Kolinio Musuka of Nakasi, from the Prison Service is unlawful, void and of no effect;
4. Costs of proceedings before Singh J fixed at \$ 500 plus reasonable disbursements as approved by the Registrar to be paid by the respondents;
5. No order as to costs of appeal.



*Proceedings*

Eichelbaum, JA

*J. F. Sheppard* J.A.

Sheppard, JA

*G. Scott*  
Scott, JA

Solicitors:

Messrs. Fa and Co., Suva for the Appellants  
Office of the Attorney General, Suva for the Respondents

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