

Office

IN THE COURT OF APPEAL OF THE FIJI ISLANDS
AT SUVA

CRIMINAL APPEAL CASE NO: AAU 0115 OF 2007

BETWEEN MESAKE SINU
Appellant

AND THE STATE
Respondent

Appellant in Person

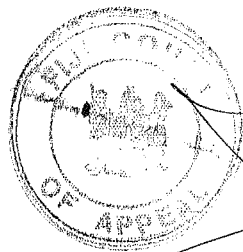
Ms Andie Driu for the Respondent

Date of Hearing & Judgment 20 June 2008

JUDGMENT

1. Mesake Sinu is the applicant in this matter. He was sentenced in the High Court at Lautoka in four (4) cases: 1) in HAC 034 of 2004 where he was sentenced to an effective term of 8 years imprisonment; 2) in HAC 018 of 2005 he was sentenced to 8 years imprisonment; 3) in HAC 020 of 2005 to an effective term of 10 years imprisonment and 4) in HAC 021 of 2005 he was sentenced to 6 years imprisonment. After applying the totality principle, the learned trial judge ordered an effective term of imprisonment of 10 years for the four cases referred to above.

2. In the above cases the appellant was charged with at least count of robbery with violence in two cases there were two counts of robbery with violence.
3. At the hearing of the applicant's leave application and because the court was seeking to fully comprehend the basic complain of the applicant, it became apparent that his complain is not against any of the sentences passed by the High Court in the cases referred to above. The applicant's complain was against what he claims to be the Prison Department's insistence that from the judgment of the High Court in HAC 019 of 2007, his total sentence was 18½ years imprisonment. He disagrees. He filed his leave to appeal out of time to get a ruling on this lack of agreement he has with the prison authorities.
4. It was explained to the applicant that his total imprisonment term should be 13½ years and not 18½ years.
5. In the context of his leave application, since his complain has nothing to do with the sentence by the High Court in HAC 019 of 2007, but with the Prison Authorities' interpretation of the court order, his leave application will have to be declined. The procedure he followed is incorrect.
6. However, to assist him in his dealings with the Prison Authorities, I undertook to make clear in the context of this judgment the actual effective terms of imprisonment that should arise from the Lautoka High Court Criminal Case No: HAC 019 of 2007. This I have done in paragraph 4 above.
7. In conclusion the leave application is declined. It has no merit. The application is dismissed under section 35(3) of the Court of Appeal Act Cap 12.



Isikeli Mataitoga
Justice of Appeal

At Suva