

IN THE FIJI COURT OF APPEAL

SUVA, FIJI

[Criminal Appeal No. AAU 0052 of 2005]

BETWEEN : **EMIRAMI SAURARA**

APPELLANT

AND : **THE STATE**

RESPONDENT

**BEFORE THE HONOURABLE
JUSTICE OF APPEAL**

: **Mr. JUSTICE JOHN E. BYRNE**

DATE OF RULING

: **18th September 2009**

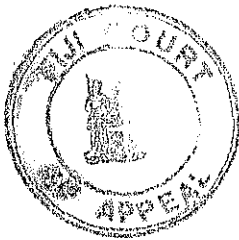
***RULING ON APPLICATION FOR
LEAVE TO REVIEW***

[1.0] I have before me a written application by the Appellant dated 12th August 2009 which was received in the Court's registry on the 26th of August 2009 for Leave to Review this Court's Decision in Criminal Appeal AAU0052/05 delivered on 25th June 2007.

[2.0] The application arises in this way. On the 25th of June, 2007 the Court of Appeal consisting of Ellis, J.A and McPherson, J.A refused the Appellant Leave to Appeal against a sentence imposed in the High Court on 4th July 2005 in respect of two offences, that of robbery with violence and unlawful use of a motor vehicle which were committed outside the business premises of Tapoos Limited at Sigatoka on the 9th of November 2004 at about midday.

- [3.0] From that refusal the Appellant petitioned the Supreme Court for Leave to Appeal against this Court's decision. The petition was refused by the Supreme Court on 26th February 2008.
- [4.0] In his letter dated the 12th of August 2009 the Appellant seeks leave to review the Court of Appeal's decision against him on the ground that a Court of Final Appeal has the power to review any of its decisions in an appropriate case where there are quite exceptional circumstances. The Appellant claims that there are such circumstances and he gives nine purported examples.
- [5.0] In my opinion the application is misconceived. First, this Court is not a Final Court of Appeal. Secondly, unlike the Supreme Court, it has no power to review its own decisions. The Administration of Justice Decree 2009 makes this clear. Section 8 of that Decree which came into force on the 16th of April 2009 gives the Supreme Court the right to review any judgment, pronouncement or Order made by it. There is no similar power given to the Court of Appeal – Section 7.
- [6.0] **This has always been the case. Accordingly I refuse the application for leave to review.**

Dated at Suva this 18th day of September 2009.



A handwritten signature in cursive script, reading "John E. Byrne", written over a horizontal dotted line.

JOHN E. BYRNE

JUDGE OF APPEAL