

IN THE COURT OF APPEAL
APPELLATE JURISDICTION

CRIMINAL APPEAL NO: AAU114 OF 2011

(High Court Case No: HAC179/10S)

BETWEEN : **JOSEVA VAKANAWAKORO**
Applicant

AND : **THE STATE**
Respondent

BEFORE : **HON. MR. JUSTICE DANIEL GOUNDAR**

Counsel : **Applicant in person**
Mr. L. Fotofili for State

Date of Hearing : **26 November 2013**

Date of Ruling : **5 December 2013**

RULING

[1] The applicant was convicted of aggravated robbery after trial in the High Court at Suva. The only incriminating evidence against him was an identification made by a witness Sulueti Raluve who was an employee of the complainant and was present at the premises where the robbery took place. Later Raluve identified the applicant in a police line-up identification parade. At trial, the applicant relied on alibi as his defence.

- [2] The applicant's appeal to this Court is against his conviction only. He is unrepresented and has raised numerous grounds of appeal. I have considered those grounds and except for one, I do not find them to be arguable before the Full Court.
- [3] The ground I find to be arguable relates to the failure of the trial judge to give *Turnbull* [1977] QB 224 directions on the reliability of Raluve's identification evidence. The State concedes that this ground is arguable. The prosecution's case against the applicant was substantially based on Raluve's identification. The applicant contended that Raluve was mistaken in her identification of him. The trial judge gave no *Turnbull* warning on the reliability of Raluve's identification evidence.
- [4] For these reasons, leave is granted to appeal against conviction on the lack of *Turnbull* directions on Raluve's identification evidence.



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Daniel Goundar
Justice of Appeal

Solicitors:

Applicant in person

Office of the Director of Public Prosecutions for State