

IN THE COURT OF APPEAL
[On Appeal from the High Court]

Criminal Appeal No. AAU0053 of 2012
[High Court Case No. HAC088 of 2010S]

BETWEEN : JOHNNY ALBERT STEPHEN

Appellant

AND : THE STATE

Respondent

Coram : Hon. Mr. Justice Goundar

Counsel : Appellant in Person
Ms. J. Prasad for the Respondent

Date of Hearing : 29 April 2014

Date of Ruling : 25 July 2014

RULING

[1] Following a trial in the High Court at Suva the appellant was convicted and sentenced to 7 years' imprisonment on two counts of money laundering. He seeks leave to appeal against his conviction and sentence pursuant to section 21(1) of the Court of Appeal Act. The test for leave is whether the appeal is arguable before the Full Court.

[2] The appellant was sentenced on 12 April 2012. He filed his appeal on 5 July 2012 although his notice is dated 12 June 2012. The Notice of Appeal was filed in person and from the prison. The length of the delay is not significant and the reason for the delay is acceptable. I grant an extension of time to 5 July 2012 to appeal.

[3] The appellant has filed numerous grounds of appeal. The State has conveniently summarised those grounds in their written submissions. I now consider the grounds of appeal.

Ground 1

The trial judge gave clear directions at paragraphs 10 and 11 of his summing up that the burden of proving the appellant's guilt was on the prosecution and the standard was proof beyond reasonable doubt. The trial judge directed the assessors that the appellant was not required to prove his innocence. No error is shown regarding the trial judge's directions on onus and burden of proof. This is not an arguable ground.

Ground 2

The elements of money laundering were clearly identified by the trial judge in his summing up at paragraph 14. This ground is not arguable.

Ground 3

The caution statement of the appellant was admitted as part of the agreed facts. The appellant was represented by counsel and counsel agreed to the admissibility of the appellant's caution statement. No arguable error arises under this ground.

Ground 4

The elements of money laundering were clearly identified by the trial judge at paragraph 14 of his summing up. The date of the alleged offence was not a material element. The Information specified the dates the offences were allegedly committed. The assessors were given a copy of the Information. Thus they knew that the offences were allegedly committed on the specified dates provided in the Information. This ground is not arguable.

Ground 5

Paragraph 16 of the summing up explains the total sum of money as alleged in the two charges. This ground is not arguable.

Ground 6

The appellant makes a broad assertion that the summing up contains misdirections. No details of the alleged misdirections have been provided by the appellant. This ground is not arguable.

Ground 7

The evidence contained in the summing up shows the convictions is supported by relevant and admissible evidence. This ground is not arguable.

Ground 8

The charges contain a statement of offence and sufficient particulars of the offence. No objection was taken by the appellant's counsel on any defects in the charges. The charges are not defective. This ground is not arguable.

Ground 9

The appellant makes a broad assertion that the summing up was not fair and balanced. The whole summing up must be read to see if it is fair and balanced. The trial judge gave balanced directions on the prosecution and the defence case. This ground is not arguable.

Ground 10

The trial judge's directions at paragraph 28 of the summing up sufficiently deals with the question of inference that the assessors were asked to draw from the evidence. This ground is not arguable.

Ground 11

The complainant's statements were admitted as part of the agreed facts. In other words, the complainants' evidence was not disputed by the appellant. There was no need for corroboration because the complainants were not accomplices. This ground is not arguable.

Ground 12

The statement of Lynne Carlos was admitted as part of the agreed facts. This ground is not arguable.

Ground 13

This ground is too broad and vague.

Ground 14

This ground makes no sense.

Ground 15

The allegation that there was a conspiracy between the bank and the police officers has no factual foundation and is not an arguable ground.

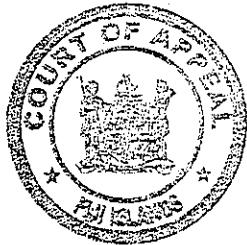
Sentence appeal


[4] The grounds of appeal against sentence are broad and misconceived except the ground relating to the remand period. The appellant alleges that he was in custody on remand for 41 days but the trial judge failed to take this into account in sentencing. The State concedes that this ground is arguable as there is nothing in the sentencing remarks to show that the trial judge reduced the sentence to reflect the appellant's remand period.

Result

[5] Leave to appeal against conviction is refused.

[6] Leave to appeal against sentence is granted only on the ground relating to the remand period.




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Hon. Justice D. Goundar
JUDGE OF APPEAL

At Suva
25 July 2014

Solicitors:

Appellant in person
Office of the Director of Public Prosecutions for State