

IN THE COURT OF APPEAL
[On Appeal From The Magistrates' Court]

CRIMINAL APPEAL NO: AAU0063 OF 2012
(Magistrates' Court Case No: 713/2012)

BETWEEN : **ERONI NABITU NABAINIVALU**
Appellant

AND : **THE STATE**
Respondent

Coram : Goundar JA

Counsel : Appellant in Person
Mr. L. Fotofili for the Respondent

Date of Hearing : 30 April 2014

Date of Ruling : 2 June 2014

RULING

- [1] This is an application for leave to appeal against sentence imposed by the Magistrates' Court exercising extended jurisdiction. The appellant was charged with aggravated robbery. On 22 May 2012, he pleaded guilty to the charge. The facts were that the appellant in the company of another robbed a service station by threatening an attendant with a cane knife and taking off with items to a total value of \$3535.40.
- [2] The appellant's sole contention is that his sentence is harsh and excessive when compared to sentences imposed in other aggravated robbery cases. The appellant has made reference to three cases where sentences from 6 months to 4 years imprisonment were imposed.
- [3] I have said on a number of occasions that an appealable error cannot arise by comparing sentences imposed in other cases. Other cases are only relevant in identifying the range of sentence for a particular offence. Otherwise, each case is considered on its own facts.

- [4] In this case, the range for aggravated robbery is well established. The range is 10 to 16 years imprisonment (*Nawalu v State Cr. App. No. CAV0012 of 2012*).
- [5] The appellant was sentenced to a term that is on the lower range of tariff for aggravated robbery. The learned Magistrate gave detailed reasons for the sentence that he imposed on the appellant. All relevant matters were properly considered by the learned Magistrate.
- [6] The ground of appeal is not arguable and I am satisfied the appeal cannot possibly succeed and therefore is frivolous.

Result

- [7] Leave to appeal against sentence is refused.
- [8] The appeal is dismissed under section 35(2) of the Court of Appeal Act.



A handwritten signature in black ink, appearing to read "D. Goundar".

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Hon. Justice D. Goundar
JUSTICE OF APPEAL