

**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**MISCELLANEOUS JURISDICTION**

**MISCELLANEOUS CASE NO. HAM 270 OF 2012S**

**JOVILISI GODROVAI**

**VS**

**THE STATE**

**Counsels : Accused in Person**  
**Ms. M. Fong for State**

**Hearing : 4<sup>th</sup> March, 2013**

**Ruling : 4<sup>th</sup> March, 2013**

**Written Reasons: 3<sup>rd</sup> May, 2013**

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**WRITTEN REASONS FOR DENIAL OF APPLICATION TO APPEAL OUT OF TIME**

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1. On 23<sup>rd</sup> August, 2010, the accused pleaded guilty to the following charge, in the Suva Magistrate Court:

**Statement of Offence**

**ESCAPE FROM LAWFUL CUSTODY: Contrary to  
Section 196 of the Crimes Decree No. 44 of 2009.**

### **Particulars of Offence**

**LEMEKI KOTOILEVUKA** and **JOVILISI GODROVAI** on the 31<sup>st</sup> day of March, 2010, at Lami in the Central Division, being in lawful custody, escaped from said lawful custody.

2. The prosecution read the Summary of Facts in court. The accused was a serving prisoner at Naboro Minimum Prison on 31<sup>st</sup> March, 2010. The accused was doing farming work for the prison. He escaped from custody, without lawful authority. He was apprehended later in the afternoon, on the same day. The accused admitted the above facts, was found guilty as charged and convicted accordingly.
3. The accused admitted 17 previous convictions. On 22<sup>nd</sup> September, 2010, the accused advanced his plea in mitigation. He said, he was 25 years old, he was serving in prison up to 2015 and he asked for a concurrent prison sentence. On 17<sup>th</sup> December, 2010, the court delivered a Written Sentence. It sentenced the accused to 8 months imprisonment, consecutive to his present prison term. He was given 28 days to appeal.
4. The prisoner did not appeal until 7<sup>th</sup> December, 2012. His appeal was approximately 2 years out of time. He has lost his right to appeal because the 28 days appeal period had long expired. He must show "good cause" to the court, for permission to extend the 28 days appeal period [section 248(2) and (3) of the Criminal Procedure Decree 2009].
5. I have carefully read the papers submitted by the prisoner. I have also carefully listened to the State's verbal reply on 4<sup>th</sup> March, 2013. I have carefully read the court record, including the Learned Magistrate's written sentence. In my view, the Learned Magistrate applied the proper procedures and the relevant laws in making his decision. The prisoner had shown no "good cause", and that's why I dismissed his application on 4<sup>th</sup> March, 2013.

**Salesi Temo**  
**JUDGE**

**Solicitor for Accused** : **Accused in Person.**  
**Solicitor for the State** : **Office of the Director of Public Prosecution, Suva.**