

Sentence Grounds of Appeal

- a) *That the learned sentencing Magistrate made a pure error of law when she went on to sentence the Appellant. She was fully aware that the Appellant will be doubly jeopardized in doing so, caused the sentence to be harsh and excessive and also had caused a grave miscarriage of justice [as was held in the Criminal Appeal in Taito Rarasea v The State Criminal Appeal No. HAA0027 of 2000]*

Conviction Grounds of Appeal

- a) *That the learned sentencing Magistrate erred in law when she sentenced the Appellant was fully-aware that the guilty plea entered by the Appellant was of an equivocal one therefore, caused the conviction to be unsafe and unsatisfactory.*

Appeal against the Conviction

2. For convenience, I first draw my attention to the appeal against the conviction, where the Appellant argues that his guilty plea is equivocal. Having carefully perused the record of the proceedings in the Magistrate's Court, it is apparent that the Appellant was given all of his procedural and constitutional rights while taking his plea. Mr. Buakula represented the Appellant on the 17th of January 2022, when he pleaded guilty of his own free will before former Chief Magistrate Mr. Usaia Ratuveli (as His Lordship then was). Having satisfied that the Appellant had pleaded guilty of his own free will and admitted the summary of facts, the learned former Chief Magistrate had then convicted him of the same pursuant to Section 174 (2) of the Criminal Procedure Act. Subsequent to several adjournments, the learned Acting Chief Magistrate, Ms. George, sentenced the Appellant on the 17th of August 2022. Accordingly, I do not find any error in recording the Appellant's guilty plea and convicting him afterwards. Hence, I find no merits in this ground of appeal.


Appeal against the Sentence

3. The Appellant argues that the learned Magistrate erred in law by imposing a consecutive sentence instead of a concurrent term.
4. Section 22 (4) of the Sentencing and Penalties Act states that:

“Every term of imprisonment imposed on a prisoner by a court in respect of a prison offence, or an escape offence must, unless otherwise directed by the court based on exceptional circumstances, be served consecutively on any uncompleted sentence of imprisonment.

5. Accordingly, the learned Magistrate had accurately ordered that the term of imprisonment of eight months be served consecutive to his remaining term of imprisonment in HAC 054/2009. Hence, I do not find any merit in this ground of Appeal.
6. In conclusion, I make the following order:
 - i) The Appeal is refused and dismissed.
7. Thirty (30) days to appeal to the Fiji Court of Appeal.




.....
Hon. Mr. Justice R. D. R. T. Rajasinghe

At Suva

29th June 2023

Solicitors.

Appellant In Person.

Office of the Director of Public Prosecutions for the Respondent.