

**IN THE SOLOMON ISLANDS COURT OF APPEAL**

**NATURE OF JURISDICTION**

Appeal from Judgment of the High Court of Solomon Islands (Kouhota J)

**COURT FILE NUMBER**

Criminal Appeal Case Number 32 of 2016 (On appeal from High Court Criminal Case No 83 of 2013)

**DATE OF HEARING**

Tuesday 25 April 2017

**THE COURT**

Goldsbrough, President  
Ward, JA  
Wilson, JA

**PARTIES**

**RAYMOND MAERATA** Appellant

-v-

**REGINA** Respondent

**ADVOCATES:**

Appellant: Mr Howard Lawry

Respondent: Ms Florence Joel

**JUDGMENT**

On 14 October 2016 the Appellant was convicted of one count of murder following trial in the Auki High Court. He has been granted leave to appeal against that conviction. The appeal was scheduled to proceed during the April 2017 sitting of this Court.

Counsel for the Appellant has applied for the fixture to be vacated and listed during the next sitting of the Court of Appeal. A memorandum in support has been filed. In that memorandum counsel records that the Judge's notes of evidence were made available on 12 April 2017 and then, on receiving those notes, counsel found there were what counsel describes as "significant differences" from counsel's notes.

Counsel for the Respondent did not oppose the application. Trial counsel for the Appellant has agreed to meet with the trial prosecutor to compare notes from the trial in an effort to reach agreement about the evidence that was heard in the Court.

Section 186 places the responsibility of taking down the evidence, or the substance of it on the trial judge. It provides:

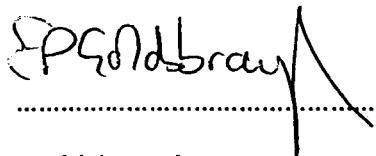
*"The Chief Justice may from time to time give directions as to the manner in which evidence shall be taken down in cases coming before the High Court, and the Judges shall take down the evidence or the substance thereof in accordance with such directions."*

The obligation placed on the trial Judge is onerous and impinges on the time that a judge has to make assessments of witnesses. The interests of justice are best served when there is a clear record of what was said by each witness. Until there is a change made by directions of the Chief Justice the obligation, nevertheless, remains on the trial judge.

It is noted that the High Court in Honiara provides a transcript of the audio recording made at the hearing of a trial. Such a recording has advantages even though it does not relieve the trial judge of the need to write out the evidence. In the course of the trial, corrections to the transcript can be made. At the time of submissions, counsel can refer to the record of what has been said by witnesses. In the event of an appeal the Court will have a record that can be checked against the audio recording.

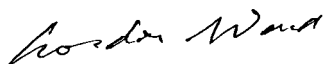
This Court requests that consideration be given to providing audio recording facilities in High Court venues outside Honiara. An audio recording of the present trial may well have prevented the need to vacate the fixture allocated for this appeal even though it would still not, as yet, remove the legal obligation on the trial judge to have made his or her own record of the evidence.

For the reasons set out above the fixture is vacated and a new fixture is to be allocated during the September/October sitting of the Court of Appeal.



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Goldsbrough, P





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Ward, JA





*Margaret Wilson*

Wilson, JA