

IN THE COURT OF APPEAL OF TONGA
CRIMINAL JURISDICTION
NUKU'ALOFA REGISTRY

BETWEEN:

SAMINSONI TU'I'ONETOA

Applicant / Appellant

-v-

REX

Respondent

ATTORNEY GENERAL'S OFFICE	
INITIALS: <i>JH</i>	DATE: 24/11/21
<input checked="" type="checkbox"/> File	<input checked="" type="checkbox"/> Website
<input checked="" type="checkbox"/> Database	<input checked="" type="checkbox"/> Social Media
<input checked="" type="checkbox"/> Email internal	<input type="checkbox"/>
AC 26 of 2021	
(CR 224 of 2020)	

Application for leave to appeal against sentence

RULING

BEFORE: PRESIDENT WHITTEN QC LCJ
To: Mr 'A. Pouvalu for the Applicant
The Attorney General for the Respondent
Application: 24 September 2021 (filed in Vava'u on 29 October 2021)
Ruling: 23 November 2021

1. The application for leave to appeal against the sentence by Niu J on 13 August 2021 (*R v Tu'i'onetoa* [2021] TOSC 130; CR 224 of 2020) does not contain any grounds.
2. In his supporting affidavit sworn 24 September 2021, the Applicant avers at [7] to his belief that the sentence was 'too harsh and excessive according to the case authority which the trial judge referred to' and that 'mitigating factors included in the Probation Report was [sic] not fully considered in the sentencing'.
3. Neither the application nor the supporting affidavit identified the cases referred to by the sentencing judge or how the sentence imposed was outside the range presented by those comparable sentences or what mitigating factors in the presentence report were not fully considered by the sentencing judge.
4. As such, on 2 November 2021, I directed the Registrar to advise Mr Pouvalu that the application was defective and that an amended application was to be filed within 14 days thereof (the direction being issued by the Registrar on 3 November 2021), failing which, the application for leave to appeal would be dismissed.
5. As at the date hereof, neither Mr Pouvalu nor the applicant have filed an amended application or any other document.
6. Accordingly, the application filed 29 October 2021 for leave to appeal against sentence is dismissed.

NUKU'ALOFA
23 November 2021



A handwritten signature in blue ink, appearing to read "M. H. Whitten".

M. H. Whitten QC LCJ
PRESIDENT

24 NOV 2021
A handwritten mark or signature in blue ink, possibly a date or initials.