

FOR AGO

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15/11/13

IN THE COURT OF APPEAL OF TONGA
CIVIL JURISDICTION

AC 18 of 2013
[CV 53 of 2013]

BETWEEN : 1. LAUTALA TAPUELUELU
2. MATENI TAPUELUELU

- Applicants

AND : ATTORNEY-GENERAL

- Respondent

DECISION

1. These are ex-parte applications for leave to appeal against orders imposing fines of \$2500.00 on the two Applicants after they were found to be in contempt of court and for a stay of the orders pending the hearing of the appeal.
2. The circumstances of the contempt as found proved are sufficiently set out in my judgment dated 26 September 2013 and need not now be repeated.
3. The proposed grounds of appeal are that the fines imposed were excessive, that they were not in line with fines previously imposed for offences of the same kind and that equal fines were imposed on both Applicants.
4. Although the proposed appeal is against the imposition of fines, the proceedings themselves were civil in nature and accordingly Section 10 of the Court of Appeal Act (as amended) applies. The convictions entered against the Applicants and the fines imposed upon them

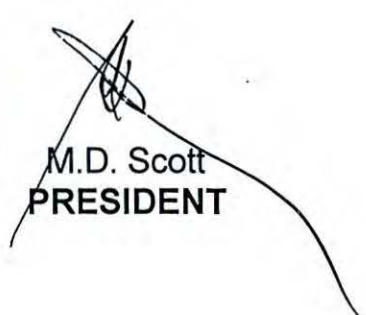
disposed of the complaint against them and were therefore final in character. In these circumstances, Section 10(1)(a) applies and no leave to appeal is required.

5. As to the applications for a stay, Order 9 of the Court of Appeal Rules provides that unless ordered by this Court or the Supreme Court, the filing of an appeal "shall not operate as a stay of execution or of proceedings in the court below".

6. After the imposition of the fines, the Applicants were asked whether they could pay these fines within 2 months: they could. There is no danger of them being imprisoned in default of repayment. If the appeal is successful then fines paid will be repaid, in whole or in part. I am not satisfied that any arguable grounds for a stay have been advanced and accordingly the application for a stay pending appeal is refused.

DATED: 15 November 2013.




M.D. Scott
PRESIDENT