

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

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*R*  
30/08/13

AC 12 of 2013

[CR 30 of 2010]

**BETWEEN:** 'UNALOTO TEISINA - Applicant

**AND :** THE CROWN - Respondent

**DECISION**

1. This is an application for leave to appeal out of time against a sentence of 6 years imprisonment imposed upon the Applicant on 7 December 2010 following conviction, on his own plea, of one count of rape and one count of indecent assault.
2. The complainant who had been in an intimate relationship with the accused for some time before his assault upon her, suffered injuries which required her to be hospitalized for 9 days.
3. According to a victim impact report filed with the sentencing count, the victim had forgiven the accused. According to the proposed grounds of appeal, the complainant and the accused are still friendly and they plan to marry as soon as the accused is released from prison.

4. Section 20 (1) allows an application for leave to appeal against sentence to be lodged within 42 days of the sentence being imposed. As noted, the sentence which it is now sought to appeal was imposed in December 2010 but no explanation has been offered for not applying for leave within the period allowed by the Act.
5. The starting point for sentencing the offence of rape is five years imprisonment (*Fa'aoso v R* [1996] TO.L.R 42). As is clear from the Judge's sentencing remarks full account was taken of the accused's guilty plea and of the fact that he was of previous good character. The Judge described the offence committed as "a very serious rape which involved horrific injuries". The photographic evidence shows that the complainant was badly punched and heavily bruised.
6. No grounds for granting leave to appeal out of time have been advanced and I am not satisfied that it is arguable that the sentence imposed was manifestly excessive. In the premises leave to appeal out of time is refused.

**DATED: 28 August 2013.**

