Recently the Court was confronted with the question of whether 5 TTC Sec. 54 can cut off further appeal rights in a case decided by the High Court on appeal from a District Court and which does not involve the construction or validity of a law, regulation or enactment. 5 TTC Sec. 54(1)(b). In *Elias v. Trust Territory of the Pacific Islands*, 6 T.T.R. 587, it was held that unless the appeal concerned construction of a law or regulation, the Appellant had no further appeal rights.

It is clear from the Notice of Appeal in this case that the appeal is not one included in 5 TTC Sec. 54(1)(b).

The appellants have no standing to appeal to the Appellate Division of the High Court.

It is hereby ordered that this appeal be and the same is hereby dismissed and the decision of the Trial Division of the High Court shall remain final.

TRUST TERRITORY OF THE PACIFIC ISLANDS, Appellee

v.

JAMES I. MACARANAS, Appellant

Criminal Appeal No. 52

Appellate Division of the High Court

April 8, 1976

Prosecution for burglary. Appellate Division of the High Court, Brown, Associate Justice, affirmed judgment of conviction holding that testimony of witness that appellant moved into driver's seat and moved car to less conspicuous position after its driver and another companion alighted from car and broke lock and entered into snack bar and returned to car with food and drink which appellant and witness helped to consume, was sufficient to justify trial court's finding that appellant was a principal.

1. **Appeal and Error—Findings and Conclusions—Supporting Evidence**
   Criminal conviction supported by testimony of witness who had not been discredited and whose testimony was not inherently improbable would be affirmed even though witness testified falsely in part.

2. **Appeal and Error—Evidence—Sufficiency**

In a criminal prosecution, testimony of single witness worthy of belief is sufficient in any case where corroboration is not required by statute.

3. **Burglary—Principal—Evidence**

In prosecution for burglary, testimony of witness that appellant moved into driver's seat and moved car to less conspicuous position after its driver and another companion alighted from car and broke lock and entered into snack bar and returned to car with food and drink which appellant and witness helped to consume, was sufficient to justify trial court's finding that appellant was a principal to crime of burglary and appellate court would not reweigh evidence, even in light of testimony by appellant that it was the witness not he who drove car to less conspicuous position. (11 TTC § 2)

Counsel for Appellant: MICHAEL A. WHITE, ESQ.
Counsel for Appellee: LINSEY J. FREEMAN, ESQ.

Before BROWN, *Associate Justice*, HEFNER, *Associate Justice*, and WILLIAMS, *Associate Justice*

BROWN, *Associate Justice*

Appellant was charged with and convicted of burglary and appeals upon the sole ground that the evidence was insufficient to sustain the judgment of the Trial Court. Clearly, the conviction must have been based upon the testimony of Isidro Norita; without it there would have been no substantial evidence against appellant; thus we relate in some detail the pertinent portions of that testimony.

During the evening of July 14, 1974, the witness Norita and Eddie Sablan misappropriated an automobile and then picked up appellant and Jose Ayuyu. The four young men, with Eddie driving, proceeded from the vicinity of the Hafa Adai Hotel to the airport, where a snack bar was located. Eddie and Jose alighted from the car, and Eddie broke the lock to the door of the snack bar and entered. Appellant moved into the driver's seat of the vehicle and, accompanied by Norita, drove the car to a position to the north of the

snack bar and parked it so that it would be in an inconspicuous position. This was done because appellant and Norita were fearful of being caught, and they remained with the automobile until Eddie and Jose appeared with food and drink which all four consumed. The party then drove back to the place where the automobile had been taken, parked the vehicle, and departed on foot.

Appellant testified that it was Norita, not he, who drove the car. Eddie Sablan testified that he did not see appellant drive, and Jose Ayuyu chose to remain silent.

It is upon the foregoing that the trial judge found appellant guilty.

Burglary as defined in 11 TTC 351 requires, among other things, an entry into a building. There was no evidence that appellant ever entered the snack bar. Thus, if his conviction is to be sustained, it must be upon the theory that he acted as a principal as defined in 11 TTC 2, which provides, in part:

> Every person is punishable as a principal who commits an offense against the Trust Territory, or who aids . . . its commission . . .

The driving of the automobile in the vicinity of the snack bar and parking it so that it would be inconspicuous constituted aid in the commission of the burglary. If Norita's testimony is to be believed, then appellant acted as a principal. But appellant urges that we disbelieve Norita and reverse the Trial Court by reason of the fact that Norita was impeached during the trial, was a convicted felon, and had lied to others. We must note, though, that at no time while he was under oath did Norita deviate from his contention that appellant did, indeed, drive and sequester the vehicle. The trial judge believed that testimony.

[1–3] It is a generally accepted principle of appellate review, in both criminal and civil cases, that where the evidence is in substantial conflict, the finding of the judge or jury on issues of fact will not be disturbed. In other words, the judgment is presumed correct, and the evidence will not be reweighed by the Appellate Court. In this case, the trial judge was the exclusive judge of the credibility of witnesses and the weight to be given their testimony. A judgment supported by the testimony of a witness who has not been discredited and whose testimony is not inherently improbable will be affirmed. *People v. Gunn*, 338 P.2d 592 (Cal. App.). This rule applies even though the witness testified falsely in part. The testimony of a single witness worthy of belief is sufficient, in any case where corroboration is not required by statute. Here, Norita's testimony was sufficient to justify the Trial Court's finding that appellant was a principal to the crime in question; and under the law we should not and must not reweigh the evidence.

Accordingly, the judment is Affirmed.

IN RE YUSIM MINOR ON HABEAS CORPUS

Civil Appeal No. 99

Appellate Division of the High Court

April 9, 1976

Appeal by government from trial court's order granting writ of habeas corpus on ground of post-conviction delay in disposition of applicant's criminal appeal. The Appellate Division of the High Court, Hefner, Associate Justice, affirmed trial court's order releasing applicant from custody but reversed that portion of court's order which dismissed criminal charges pending on appeal.

Habeas Corpus—Purpose and Scope

Scope and purpose of writ of habeas corpus is to inquire into cause of person's imprisonment and restraint. (9 TTC § 101)