

**IN THE COURT OF APPEAL**  
**ON APPEAL FROM THE HIGH COURT**

**CRIMINAL APPEAL AAU0101 of 2008**  
**(High Court HAC 18 of 2005)**

**BETWEEN** : **PELI KETE DOVIYAROI**

***Appellant***

**AND** : **THE STATE**

***Respondent***

**Coram** : **Calanchini P**  
**Kumararatnam JA**

**Counsel** : **No appearance by the Appellant**  
**Mr L Fotofili for the Respondent**

**Date of Hearing** : **10 September 2014**

**Date of Ruling** : **13<sup>th</sup> October 2014**

**RULING**

**Calanchini P**

[1] I agree that the appeal should be dismissed.

**Kumararatnam JA**

- [2] The Appellant was convicted after trial on 17 September 2008 by the High Court of Suva. He was charged on one count of Official Corruption contrary to Section 111 of the Penal Code Cap 17. He was sentenced to a term of imprisonment of 03 years. He subsequently filed an application for leave to appeal against conviction only.
- [3] When the application for leave came before a single judge of the Court on 05 August 2014, the Appellant did not appear before the court. The Appellant had filed his notice of abandonment on 22/09/2009 and indicated that he wanted to abandon his appeal.
- [4] In accordance with the Supreme Court decision in **Masirewa v The State** (unreported CAV 14 of 2008; 17 August 2010) the learned Justice of Appeal referred the application to the Full Court for determination under Rule 39 of the Court of Appeal Rules.
- [5] The President of Court of Appeal acting under Section 6(2) of Court of Appeal Act directed that the Court be constituted with two judges to hear the application.
- [6] When this matter came before the Court on 10 September 2014, the Appellant was not present in the court. It would appear that he had not been served with notice of the proceedings as he could not be located. In view of the Appellant's apparent lack of interest in prosecuting his appeal, the application for leave to appeal against conviction is refused.

**Orders:**

*Leave to appeal against conviction is refused.*



*W. Calanchini*

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**HON. MR JUSTICE CALANCHINI  
PRESIDENT COURT OF APPEAL**

*J. Kumararatnam*

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**HON. MR JUSTICE KUMARARATNAM  
JUSTICE OF APPEAL**