

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

**CRIMINAL APPEAL AAU 88 OF 2015**  
(High Court HAC 16 of 2015)  
(EJC 4 of 2013)

**BETWEEN** : **JOSEFA ATANI**  
**AUTIKO NAVUDA**

*Appellants*

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

*Respondent*

**Coram** : **Calanchini P**  
**Guneratne JA**  
**Bandara JA**

**Counsel** : **Mr M Yunus for the First Appellant**  
**Second Appellant in person**  
**Mr. M. Korovou for the Respondent**

**Date of Hearing** : **13 February 2017**

**Date of Ruling** : **31 March 2017**

**RULING**

[1] These are withdrawal applications filed by the Appellants on 11 May 2016 and 15 July 2016 respectively.

[2] The Appellants together with one other (Antonio Epi whose appeal was dismissed on 26 February 2016 on an application to abandon the appeal) appeared in the Magistrates

Court at Sigatoka on a charge of aggravated robbery contrary to section 311(1)(a) of the Crimes Decree 2009. This was under the extended jurisdiction of the High Court exercised by the Magistrates Court pursuant to section 4(2) of the Criminal Procedure Decree 2009.

- [3] The Appellants were subsequently convicted and sentenced to a term of imprisonment of 3 years with 2 years non-parole and 2 years with 18 months non-parole respectively.
- [4] On 29 July 2015 the Appellants filed a joint notice of appeal against sentence. Subsequently the Appellants applied under Rule 39 of the Court of Appeal Rules by notices dated 11 May 2016 and 15 July 2016 for leave to abandon their appeals.
- [5] In accordance with the decision of the Supreme Court in Masirewa -v- The State (CAV 14 of 2008; 17 August 2010) their applications to abandon their appeals were listed for hearing before the Court of Appeal. The Appellants confirmed that their decisions to abandon their appeals were made voluntarily. They also confirmed that they had received legal advice and understood the consequences in the event that their applications were granted.
- [6] Under the circumstances the applications to abandon the appeals against sentence are granted and the appeals are dismissed

Order:  
*Appeals against sentence are dismissed.*



*W. Calanchini*

Hon Mr Justice Calanchini  
**President, Court of Appeal**

*J. G. Guneratne*

Hon Mr Justice Guneratne  
**Justice of Appeal**

*H. Bandara*

Hon Mr Justice Bandara  
**Justice of Appeal**