

IN THE COURT OF APPEAL, FIJI
ON APPEAL FROM THE MAGISTRATES COURT
Exercising extended jurisdiction

CRIMINAL APPEAL AAU 0011 OF 2016
(Magistrates Court No: 1311 of 2014 at Suva)

BETWEEN : **JOSEFA DIANI**
Appellant

AND : **THE STATE**
Respondent

Coram : **Calanchini P**
Chandra JA

Counsel : **Appellant in person**
Mr M Vosawale for the Respondent

Date of Hearing : **22 February 2018**

Date of Ruling : **29 March 2018**

RULING

Calanchini P

[1] The Appellant was convicted on one count of aggravated robbery on his plea of guilty in the Magistrates Court at Suva exercising extended jurisdiction of the High Court. On 2 October 2015 he was sentenced to 5 years 10 months imprisonment with a non-parole term of 3 years,

- [2] The Appellant subsequently filed a notice of appeal against conviction and sentence that was out of time by about 2 months. On 29 November 2017 the Appellant filed an application to abandon his appeal against conviction and sentence pursuant to Rule 39 of the Court of Appeal Rules.
- [3] In accordance with the decision of the Supreme Court in Masirewa -v- The State (CAV 14 of 2008; 17 August 2010) the application to abandon the appeal was listed for hearing before the Court of Appeal. At the hearing the appellant confirmed that his decision to abandon the appeal was made voluntarily. He confirmed that he had received legal advice and that he understood the consequences in the event that his application was granted. He stated that his reason for abandoning his appeal was the notification of his due release date.
- [4] Under the circumstances the application to abandon the appeal against conviction and sentence is granted and the appeal is dismissed.


Chandra JA

- [5] I agree.


Orders:

Appeal against conviction and sentence is dismissed.





Hon Mr Justice W.D. Calanchini
PRESIDENT, COURT OF APPEAL



Hon Mr Justice S. Chandra
JUSTICE OF APPEAL