

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

**CRIMINAL APPEAL AAU 0037 OF 2015**  
(High Court HAM 238 of 2014 at Lautoka)  
(Magistrates Court No: 380 of 2009 at Lautoka)

**BETWEEN** : SAMUELA RAMAGIMAGI

*Appellant*

**AND** : THE STATE

*Respondent*

**Coram** : Calanchini P  
Chandra JA  
Bandara JA

**Counsel** : Mr M Fesaitu for the Appellant  
Ms P Madanavosa for the Respondent

**Date of Hearing** : 17 May 2018

**Date of Ruling** : 1 June 2018

**RULING**

**Calanchini P**

- [1] The appellant was convicted in the Magistrates Court at Lautoka on one count of robbery. He was sentenced on 13 March 2014 to a term of imprisonment of 3 years 6 months with

a non-parole term of 30 months. He then filed an appeal in the High Court which was dismissed.

[2] The Appellant subsequently filed a timely notice of appeal in this Court under section 22 of the Court of Appeal Act 1949. On 29 April 2016 the Appellant filed an application to abandon that appeal pursuant to Rule 39 of the Court of Appeal Rules. For reasons that are not known the application was not listed in the September 2016 session of the Court.

[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 his appeal was eventually listed for hearing before the Court of Appeal in the 2018 May session. However by that time the appellant had been discharged having served his sentence. The Court is prepared to act on his signed application to abandon his appeal that had been filed as a second tier appeal.

[4] Under the circumstances the application to abandon the appeal filed under section 22 is granted and the appeal is dismissed.

**Chandra JA**

[5] I agree.

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**Bandara JA**

[6] I agree.

Orders:

*Appeal is dismissed.*

*W. Calanchini*

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

*S Chandra*

Hon. Justice S Chandra  
**JUSTICE OF APPEAL**

*W Bandara*

Hon. Justice W Bandara  
**JUSTICE OF APPEAL**