

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

**CRIMINAL APPEAL NO. AAU 73 OF 2016**  
(Magistrates Court No: 727 of 2011 at Suva)

**BETWEEN** : **KONIA TUWAI** *Appellant*

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

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

**Counsel** : **Ms S Ratu for the Appellant**  
**Mr S Shah for the Respondent**

**Date of Hearing** : **22 May 2019**

**Date of Ruling** : **27 June 2019**

**RULING**

**Calanchini P**

- [1] The appellant with one other (Sailomo Vodo) was convicted by the Magistrates Court at Suva exercising extended jurisdiction on one count of aggravated robbery. On 22 July 2016 the appellant was sentenced to 5 years imprisonment with a non-parole term of 4 years.

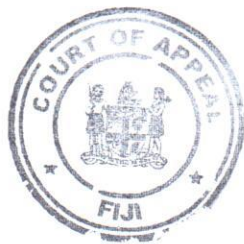
- [2] The Appellant subsequently filed a timely notice of appeal against conviction. On 24 January 2019 the Appellant filed an application to abandon his appeal against conviction pursuant to Rule 39 of the Court of Appeal Rules.
- [3] In accordance with the decision of the Supreme Court in Masirewa –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 were granted.
- [4] Under the circumstances the application to abandon the appeal against conviction should be granted and the appeal dismissed.

**Chandra JA**

- [5] I agree.

Order:

*Appeal against conviction is dismissed.*



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

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