

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

CRIMINAL APPEAL NO. AAU 119 OF 2016
(High Court HAC 320 of 2011)

BETWEEN : ISIMELI RONA VATUKALOU *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 was convicted by the High Court at Suva on one count of rape. On 11 July 2013 the appellant was sentenced to 8 years imprisonment with a non-parole term of 6 years.

- [2] The Appellant subsequently filed a notice of appeal against conviction and sentence that was out of time by over 3 years. On 21 March 2019 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 were granted.
- [4] Under the circumstances the application to abandon the appeal against conviction and sentence should be granted and the appeal dismissed.

Chandra JA

- [5] I agree.

Order:

Appeal against conviction and sentence is dismissed.



W. Calanchini

Hon Mr Justice W D Calanchini
PRESIDENT, COURT OF APPEAL

S Chandra

Hon Mr Justice S Chandra
JUSTICE OF APPEAL