

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

CRIMINAL APPEAL NO. AAU 167 OF 2016
(High Court HAC 285 of 2016)

BETWEEN : **ISIKELI DELAIVUNA** *Appellant*

AND : **THE STATE** *Respondent*

Coram : **Calanchini P**
Chandra JA

Counsel : **Ms S Ratu for the Appellant**
Ms S Tivao for the Respondent

Date of Hearing : **24 May 2019**

Date of Ruling : **27 June 2019**

RULING

Calanchini P

[1] The appellant was convicted on his plea of guilty on one count of rape by the High Court at Suva. The complainant was 5 years old at the time of the offence. On 5 October 2016 the appellant was sentenced to 10 years 10 months imprisonment with a non-parole term of 8 years 10 months.

- [2] The Appellant subsequently filed a timely notice of appeal against sentence. On 31 December 2018 the Appellant filed an application to abandon his appeal against 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 sentence should be granted and the appeal dismissed.

Chandra JA

- [5] I agree.

Order:

Appeal against 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