

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

**CRIMINAL APPEAL NO. AAU 59 OF 2008**  
**(High Court HAC 30 of 2005)**

**BETWEEN** : **THE STATE** *Appellant*

**AND** : **Waisea Vakarauvanua** *Respondent*

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

**Counsel** : **Ms W Elo for the Appellant**  
**No appearance for the Respondent**

**Date of Hearing** : **24 September 2019**

**Date of Ruling** : **25 October 2019**

**RULING**

**Calanchini P**

[1] The respondent had been acquitted following a trial in the High Court at Suva on one count of burglary and one count of robbery with violence.

- [2] The Appellant subsequently filed a timely notice of appeal against acquittal. On 10 April 2019 the Appellant filed an application to abandon the appeal against acquittal 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. The Court was informed by Counsel for the State that the decision to abandon the appeal had been made by the Director of Public Prosecutions.
- [4] Under the circumstances the application to abandon the appeal against acquittal is granted and the appeal is dismissed.

**Chandra JA**

- [5] I agree.

Order:

*Appeal against acquittal is dismissed.*



*W. Calanchini*

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

*S. Chandra*

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