

IN THE COURT OF APPEAL, FIJI
APPELLATE JURISDICTION

CRIMINAL APPEAL NO. AAU0002 OF 2011
High Court Criminal Action No. HAC 127 of 2009

BETWEEN : **VAMARASI MOTOFAGA**

Appellant

AND : **THE STATE**

Respondent

Coram : **Chandra RJA**

Counsel : **Appellant in Person**
Ms M. Fong for the Respondent

Date of Hearing : **1 May 2013**

Date of Ruling : **8 May 2013**

RULING

1. The Appellant was charged for manslaughter and he pleaded guilty to the said charge on the 6th of August 2010.
2. He was convicted on the 12th of August 2010 to 3 years imprisonment with a non-parole period of 2 years.
3. The Appellant filed an application for leave to appeal out of time against his sentence on 30th December 2010.

4. When the Appellant's application for leave to appeal was taken up for hearing on 1st May 2013 he made an application to withdraw his appeal as he had served his sentence and had been released on 11th April 2013.

5. A single Judge of the Court of Appeal has no jurisdiction to decide on an application to withdraw an appeal. In terms of Rule 39 of the Court of Appeal Rules the single Judge should direct the application for withdrawal to be made before the Full Court.

6. Therefore I direct that this case be placed in the list of appeals to be heard before the Full Court.

Suresh Chandra
Resident Justice of Appeal