

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

**CRIMINAL APPEAL AAU 7 OF 2013**  
**(High Court HAA 6 of 2012)**

**BETWEEN** : **IRSHAD HUSSEIN** *Appellant*

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

**Coram** : **Calanchini P**  
**Malalgoda JA**  
**Kumararatnam JA**

**Counsel** : **Appellant in person**  
**Mr M Korovou for the Respondent**

**Date of Hearing** : **16 May 2014**

**Date of Decision** : **30 May 2014**

**DECISION**

**Calanchini P**

[1] The Appellant was convicted in the Magistrates Court on one count of obtaining money by false pretences. On 7 October 2011 he was sentenced to a term of

imprisonment of 4 years with a non-parole term of 3 years. On appeal to the High Court that sentence was reduced to 3½ years with a non-parole term of 2½ years on 16 July 2012.

- [2] A handwritten notice dated 11 December 2012 seeking leave to appeal out of time against sentence was subsequently filed on 22 February 2013 in typed form.
- [3] In a letter dated 12 March and received by the Registry on 17 March 2014 the Appellant applied to abandon his appeal under Rule 39 of the Court of Appeal Rules.
- [4] In accordance with the requirements set out by the Supreme Court in Masirewa -v- The State (unreported CAV 14 of 2008; 17 August 2010) the application was listed for hearing before the Court of Appeal. In the course of the hearing the Appellant confirmed that he wished to abandon his appeal against sentence. He stated that he is approaching the end of his non-parole term and intended to apply to serve the balance as an extramural prisoner. He assured the Court that his decision had been made voluntarily and without coercion. He stated that he understood the consequence for him once the Court had dismissed his appeal.
- [5] Under the circumstances the application to abandon the appeal against sentence should be granted and the appeal dismissed.

**Malalgoda JA**

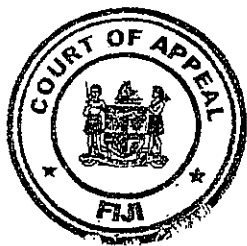
- [6] I agree with the decision of Calanchini P.

**Kumararatnam JA**

- [7] I too agree with the decision of Calanchini P.

**Orders:**

*Appeal dismissed.*



*W. Calanchini*

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HON. MR JUSTICE CALANCHINI  
PRESIDENT, COURT OF APPEAL

*Malalgoda*

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HON. MR JUSTICE MALALGODA  
JUSTICE OF APPEAL

*Kumararatnam*

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HON. MR JUSTICE KUMARARATNAM  
JUSTICE OF APPEAL