

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

CRIMINAL APPEAL AAU 23 of 2015

(High Court HAA 26 of 2014[Lautoka])
(Magistrates Court No.451 of 2012[Nadi])

BETWEEN : **ERONI VAOEWA**

Appellant

AND : **THE STATE**

Respondent

Coram : Calanchini P
Guneratne JA
Prematilaka JA

Counsel : No appearance for the Appellant
Mr M Korovou for the Respondent

Date of Hearing : 18 November 2016

Date of Ruling : 19 December 2016

RULING

[1] The Appellant was charged with one count of serious assault under section 277(b) of the Crimes Decree 2009 (the Decree). The charge was listed for hearing in the Magistrates Court at Nadi. On 29 July 2014 the Magistrate order that the Appellant be discharged due to the non-attendance of prosecution witnesses. The Magistrate noted that the

Prosecutor was at liberty to recharge when in a position to proceed. At the same time the Magistrate dismissed the charge.

- [2] The Appellant appealed to the High Court at Lautoka. For reasons that are not presently relevant the learned High Court Judge allowed the appeal, set aside the orders of the Magistrates Court and ordered that the Appellant appear in the Lautoka Magistrates Court for a trial de novo. These orders were made in a written judgment delivered on 23 January 2015.
- [3] The Appellant filed on 13 February 2015 a timely notice of appeal in this Court under section 22 of the Court of Appeal Act Cap 12 (the Act). However on 29 April 2016 the Appellant filed a notice of intention to abandon the appeal under Rule 39 of the Court of Appeal Rules (the Rules).
- [4] On 18 November 2016 the matter was listed for hearing before the Court of Appeal. There was no appearance by or on behalf of the Appellant. In view of the indifference on the part of the Appellant the appeal is dismissed.

Orders:

Appeal under section 22 of the Court of Appeal Act is dismissed.



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

J. Guneratne
.....
Hon. Justice Guneratne
JUSTICE OF APPEAL

C. Prematilaka
.....
Hon. Mr. Justice C. Prematilaka
JUSTICE OF APPEAL