

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

CRIMINAL APPEAL AAU 20 of 2014
(High Court HAA 4 of 2013)

BETWEEN : TOKIA TEANGAMATE *Appellant*

AND : THE STATE *Respondent*

Coram : Calanchini P
Basnayake JA
Prematilaka JA

Counsel : Mr S Waqainabete for the Appellant
Ms S Puamau for the Respondent

Date of Hearing : 26 May 2016

Date of Ruling : 3 June 2016

RULING

Calanchini P

[1] This is an application for leave to abandon an appeal against sentence under Rule 39 of the Court of Appeal Rules.

- [2] The Appellant was convicted on one count of committing an act intended to cause grievous harm contrary to section 255(a) of the Crimes Decree 2009 on his early plea of guilty. On 19 February 2013 he was sentenced to a term of imprisonment of 4 years with a non-parole term of 2 years.
- [3] On 3 March 2015 the Legal Aid Commission on behalf of the Appellant filed a notice of motion seeking an order amongst others that the Appellant be granted an enlargement of time to file an application for leave to appeal against sentence. The application was heard by a Judge of the Court of Appeal who granted an enlargement of time on 2 March 2016.
- [4] On 4 March 2016 the Legal Aid Commission filed Notice of Abandonment of Appeal on behalf of Appellant. In accordance with the decision of the Supreme Court of Masirewa -v- The State (CAV 14 of 2008; 17 August 2010) the application was listed for hearing before the Court of Appeal.
- [5] Through his Counsel the Appellant confirmed that he wanted to abandon his appeal against sentence. He confirmed that his application had been made voluntarily. He stated that he had received legal advice and understood the consequences for him if his application were to be granted.
- [6] Under the circumstances the application to abandon the appeal against sentence should be granted and the appeal dismissed.

Basnayake JA

- [5] I agree that the appeal should be dismissed.

Prematilaka JA

- [6] I agree also that the appeal should be dismissed.

Order:

Appeal against sentence is dismissed.



W. Calanchini

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

[Signature]

Hon. Mr Justice Basnayake
JUSTICE OF APPEAL

[Signature]

Hon. Mr Justice Prematilaka
JUSTICE OF APPEAL