

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

CRIMINAL APPEAL AAU 10 OF 2016
(High Court HAC 208 of 2014)

BETWEEN : ASIKINASA WAQA
SERUPEPELI CURUQARA

Appellants

AND : THE STATE

Respondent

Coram : Calanchini P
Prematilaka JA

Counsel : Mr M Fesaitu for the Appellants
Mr M Vosawale for the Respondent

Date of Hearing : 20 November 2017

Date of Ruling : 14 December 2017

RULING

- [1] The Appellant Waqa along with Serupepeli Curuqara was convicted on 10 December 2014 by the High Court at Suva on 4 counts of rape. Both were sentenced to terms of imprisonment of seven years with non-parole terms of 5 years.

- [2] Both Appellants subsequently filed a joint notice of appeal against sentence that was out of time by about 12 months. On 10 April 2017 the Appellant Waqa filed an application to abandon his appeal against sentence 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. At the hearing the appellant confirmed that his decision to abandon the appeal was made voluntarily. He confirmed that although he had not received legal advice he understood the consequences in the event that his applications were granted.
- [4] Under the circumstances the application by Waqa to abandon the appeal against sentence is granted and his appeal is dismissed. The appeal by Curuqara is listed for mention on 13 December 2017 at 11.30am.

Orders:

1. *Appeal by Waqa against sentence is dismissed.*
2. *Appeal by Curuqara is listed for mention on 13 December 2017 at 11.30am.*



W. Calanchini

Hon Mr Justice Calanchini
PRESIDENT, COURT OF APPEAL

S. Prematilaka

Hon Mr Justice Prematilaka
JUSTICE OF APPEAL