

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

CRIMINAL APPEAL AAU 76 OF 2016  
(High Court HAC 79 of 2014)

BETWEEN : SAMUELA KACI  
APENISA TUBAKILAKEBA

*Appellants*

AND : THE STATE

*Respondent*

Coram : Calanchini P  
Chandra 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

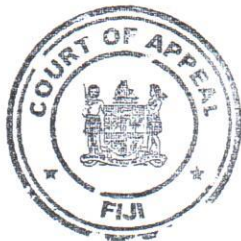
RULING

[1] The Appellants were convicted by the High Court at Suva on one count of manslaughter. Samuela Kaci was sentenced to 5 years imprisonment with a non-parole term of 4 years. Apenisa Tubakilakeba was sentenced to 4 years imprisonment with a non-parole term of 3 years.

- [2] The Appellants subsequently filed a timely notice of appeal against sentence and an out of time appeal against conviction. On 18 July 2017 the Appellant Kaci filed an application to abandon his appeal against sentence and on 15 September 2017 the Appellant Tubakilakeba filed a similar application pursuant to Rule 39 of the Court of Appeal Rules. On 3 October 2017 both Appellants filed written application to abandon their appeals against conviction.
- [3] In accordance with the decision of the Supreme Court in Masirewa -v- The State (CAV 14 of 2008; 17 August 2010) the applications to abandon the appeals were listed for hearing before the Court of Appeal. At the hearing the appellants confirmed that their decisions to abandon the appeals were made voluntarily. They confirmed that they had received legal advice and that they understood the consequences in the event that their applications were granted.
- [5] Under the circumstances the applications to abandon the appeals against conviction and sentence are granted and the appeals are dismissed.

Orders:

*Appeals against conviction and sentence are dismissed.*



*W. Calanchini*

Hon Mr Justice Calanchini  
**President, Court of Appeal**

*Justice Chandra*

Hon Mr Justice Chandra  
**Justice of Appeal**