

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

CRIMINAL APPEAL NO. AAU 107 OF 2017
(High Court HAC 86 of 2011)

BETWEEN : **SEREMAIA NAIDOLE MOMO** *Appellant*

AND : **THE STATE** *Respondent*

Coram : **Calanchini P**
Chandra JA

Counsel : **Ms S Nasedra for the Appellant**
Mr R Kumar for the Respondent

Date of Hearing : **22 November 2018**

Date of Ruling : **30 November 2018**

RULING

Calanchini P

[1] The appellant was convicted on his plea of guilty in the High Court on 2 counts of murder. On 18 May 2012 he was sentenced to mandatory life imprisonment with the recommendation that a minimum term of 24 years be served before a pardon may be considered under section 237 of the Crimes Act 2009.

- [2] The Appellant subsequently filed a notice of appeal against conviction and sentence that was out of time by about 4 years. On 20 June 2018 the Appellant 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) that application to abandon the appeal was listed for hearing before the Court of Appeal. At the hearing the appellant informed the Court that he wanted to pursue his appeal against conviction and sentence.
- [4] It is noted that both parties have filed their submissions on the enlargement of time application.
- [5] As a result, the application to abandon the appeal against sentence is marked withdrawn.

Chandra JA

- [6] I agree.

Orders:

- 1) *Application to abandon appeal against sentence is withdrawn.*
- 2) *Application for leave to appeal conviction and sentence to be listed before a justice of appeal on a date to be fixed.*



W. Calanchini

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

S. Chandra

Hon Mr Justice S Chandra
JUSTICE OF APPEAL