

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

CRIMINAL APPEAL NO. AAU 93 OF 2016  
(High Court HAC 334 of 2015)

BETWEEN : ERONI VAKALEVULEVUI  
*Appellant*

AND : THE STATE  
*Respondent*

Coram : Calanchini P  
Chandra JA

Counsel : Ms S Ratu for the Appellant  
Mr S Shah for the Respondent

Date of Hearing : 22 May 2019

Date of Ruling : 27 June 2019

**RULING**

Calanchini P

[1] The appellant was convicted on his plea of guilty in the High Court at Suva on one count of assault with intent to commit rape, one count of sexual assault and one count of rape. On 11 December 2015 the appellant was sentenced to 10 years 2 months imprisonment with a non-parole term of 8 years 10 months.

- [2] The Appellant subsequently filed a notice of appeal against sentence that was out of time by about 6 months. On 20 March 2019 the Appellant filed an application to abandon his appeal against sentence pursuant to Rule 39 of the Court of Appeal Rules. His appeal against conviction had been dismissed on 30 November 2018 by the Court of Appeal.
- [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 he had received legal advice and that he understood the consequences in the event that his application were granted.
- [4] Under the circumstances the application to abandon the appeal against sentence should be granted and the appeal dismissed.

**Chandra JA**

- [5] I agree.

Order:

*Appeal against sentence is dismissed.*



*W. Calanchini*

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

*S. Chandra*

Hon Mr Justice S Chandra  
**JUSTICE OF APPEAL**