

**IN THE COURT OF APPEAL, FIJI**  
**ON APPEAL FROM THE MAGISTRATES COURT**  
*Exercising extended jurisdiction*

**CRIMINAL APPEAL NO. AAU 133 OF 2017**  
(Magistrates Court No: 282 of 2016 at Nausori)

**BETWEEN** : **MASIVESI DAKUWAQA** *Appellant*

**AND** : **THE STATE** *Respondent*

**Coram** : **Calanchini P**  
**Chandra JA**

**Counsel** : **Ms S Nasedra for the Appellant**  
**Ms S Tivao for the Respondent**

**Date of Hearing** : **24 May 2019**

**Date of Ruling** : **27 June 2019**

**RULING**

**Calanchini P**

[1] The appellant was convicted on his plea of guilty by the Magistrates Court at Nausori exercising extended jurisdiction on one count of aggravated robbery. On 15 June 2016 the appellant was sentenced to 5 years 10 months imprisonment with a non-parole term of 4 years.

- [2] The Appellant subsequently filed a notice of appeal against sentence that was out of time by about 14 months. On 25 January 2019 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) 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**