

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

CRIMINAL APPEAL NO. AAU 133 OF 2014
(High Court HAA 13 of 2014)
(Magistrates Court No.389 of 2011 at Lautoka)

BETWEEN : SAIRUSI SOKO
Appellant

AND : THE STATE
Respondent

Coram : Calanchini P

Counsel : Mr M Fesaitu for the Appellant
Ms S Tivao for the Respondent

Date of Hearing : 2 July 2019

Date of Ruling : 19 July 2019

RULING

[1] Following a trial in the Magistrates Court exercising extended jurisdiction the appellant together with 2 others was convicted on one count of aggravated burglary. On 20 May 2014 the appellant was sentenced to 2 years imprisonment with a non-parole term of 20 months.

- [2] In error the appellant had filed a timely appeal against conviction and sentence in the High Court. That appeal was dismissed by the High Court for want of jurisdiction. The appellant then correctly filed an application for leave to appeal against his conviction and sentence by the Magistrates Court exercising the extended jurisdiction of the High Court. At the leave hearing, the appeal against sentence was abandoned and leave to appeal against conviction was granted in a written Ruling delivered on 13 July 2015. Unfortunately the appeal record was not prepared by the legal practitioners acting for the appellant.
- [3] When the matter was called for mention on 8 April 2019 Counsel for the appellant indicated that the appellant had indicated that he wanted to abandon his conviction appeal. Unfortunately the appellant was not present and as a result there was no notice to that effect filed on that day.
- [4] As a result the case was listed for further mention on 2 July 2019. On that day the Court was informed that the appellant had served his sentence and had been discharged without providing a forwarding address for the service of notices. His whereabouts are unknown. As a result the appeal is dismissed under section 35(2) of the Act as vexatious.

Order:

Appeal against conviction and sentence dismissed under section 35(2) of the Court of Appeal Act.



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