

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

CRIMINAL APPEAL NO. AAU 64 OF 2013

(High Court HAR 15 of 2010)

(HAR 7 of 2012)

(HAR 10 of 2012)

BETWEEN : **THE STATE**

Appellant

AND : **NEMANI RATUYAWA** and
PAULA NAWADRADRA
JOSESE YAUTA
ANASA TOLOI

Respondents

Coram : **Calanchini P**
Chandra JA

Counsel : **Ms W Elo for the Appellant**
Ms S Nasedra for the Respondents

Date of Hearing : **24 September 2019**

Date of Ruling : **25 October 2019**

RULING

Calanchini P

[1] The Respondents were convicted on their pleas of guilty by the Magistrates Court at Suva on counts of unlawful cultivation of illicit drugs. They each received custodial sentences. The matters were called up for review by the High Court pursuant to section 260(1) of the Criminal Procedure Act 2009. On 19 October 2012 the High Court quashed the convictions for want of jurisdiction, remitted the matters back to the Magistrates Court

and remanded the respondents. Subsequently the State entered a “*nolle*” for Nawadradra on 3 July 2014, for Yauta on 11 February 2014 and for Toloï on 5 July 2013.

- [2] The Appellant filed a notice of appeal against the Review Ruling for Ratuyawa that was out of time by about 7 months. On 11 April 2019 the Appellant filed an application to abandon the appeal against the Review Ruling 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.
- [4] At the hearing the Court was informed that the Respondent Ratuyawa had pleaded guilty on re-trial in the High Court and is currently serving the balance of a reduced sentence following a successful appeal to the Court of Appeal.
- [5] Under the circumstances the application to abandon the appeal against the Review Ruling is granted and the appeal is dismissed.

Chandra JA

- [6] I agree.

Order:

Appeal is dismissed.



W. Calanchini

Hon Mr Justice W D Calanchini
PRESIDENT, COURT OF APPEAL

S Chandra

Hon Mr Justice S Chandra
JUSTICE OF APPEAL