

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

CRIMINAL APPEAL NO. AAU 68 OF 2016
(High Court HAC 147 of 2013)

BETWEEN : **JOELI SOAQALI**
PETERO TUIVAKALEA

Appellants

AND : **THE STATE**

Respondent

Coram : **Calanchini P**
Chandra JA

Counsel : **Ms L Ratidara for the Appellants**
Ms S Kiran for the Respondent

Date of Hearing : **20 November 2019**

Date of Ruling : **11 December 2019**

RULING

Calanchini P

[1] Following a trial in the High Court the appellants together with one other (Tevita Gonevou) were convicted on one count of aggravated robbery. On 29 May 2015 the appellant Soaqali was sentenced to 9 years 10 months imprisonment with a non-parole term of 8 years. The appellant Tuivakalea was sentenced to 8 years 10 months imprisonment with a non-parole term of 7 years.

- [2] The appellants subsequently filed timely notices of appeal against conviction and sentence. On 2 May 2018 the Appellants filed applications to abandon their appeals against sentence pursuant to Rule 39 of the Court of Appeal Rules. On 20 November 2019 the appellants signed and filed applications to abandon both their conviction and sentence appeals.
- [3] In accordance with the decision of the Supreme Court in Masirewa –v- The State (CAV 14 of 2008; 17 August 2010) the applications to abandon the appeals were listed for hearing before the Court of Appeal. At the hearing the appellants confirmed that their decisions to abandon their appeals were made voluntarily. They advised that they had not received legal advice but that they understood the consequences in the event that their applications were granted. The Court sought confirmation from both appellants that neither of them wanted further time to obtain legal advice.
- [4] Under the circumstances the applications to abandon the appeals against conviction and sentence are granted and the appeals are dismissed.

Chandra JA

- [5] I agree.

Order:

Appeals against conviction and sentence are dismissed.



W. Calanchini

Hon Mr Justice W D Calanchini
PRESIDENT, COURT OF APPEAL

S. Chandra

Hon Mr Justice S Chandra
JUSTICE OF APPEAL