

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

CRIMINAL APPEAL NO. AAU 105 OF 2017
(High Court HAC 93 of 2017)

BETWEEN : LEMEKI TABUSOI
Appellant

AND : THE STATE
Respondent

Coram : Calanchini P
Chandra JA

Counsel : Ms S Nasedra for the Appellant
Ms S Kiran for the Respondent

Date of Hearing : 20 November 2019

Date of Ruling : 11 December 2019

RULING

Calanchini P

[1] The appellant was convicted on his plea of guilty by the Magistrates Court at Lautoka on one count of unlawful cultivation of an illicit drug in the form of cannabis sativa with a total weight of 5kg. On 1 June 2017 he was sentenced by the High Court at Lautoka to 7 years 4 months imprisonment with a non-parole term of 6 years.

- [2] The Appellant subsequently filed a timely notice of appeal against sentence. On 3 May 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 although he had not received legal advice, he understood the consequences in the event that his application were granted. He stated that he was serving an unrelated longer sentence and that on the basis of legal advice accepted that he should withdraw the appeal.
- [4] Under the circumstances the application to abandon the appeal against sentence is 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