

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

**CRIMINAL APPEAL NO. AAU 175 OF 2016**  
(High Court HAC 116 of 2013  
(Magistrates Court No: 331 of 2013 at Nasinu)

**BETWEEN** : **JOSEVATA KALOUNIVONU** *Appellant*

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

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

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

**Date of Hearing** : **18 February 2019**

**Date of Ruling** : **29 March 2019**

**RULING**

**Calanchini P**

- [1] Following a trial in the Magistrates Court at Nasinu exercising extended jurisdiction the appellant was convicted on one count of attempted arson and on 18 November 2016 was sentenced to a term of imprisonment of 3 years with a non-parole term of 12 months.

- [2] The Appellant subsequently filed a timely notice of appeal against conviction and sentence. On 22 November 2018 the Appellant filed an application to abandon his appeal against conviction and 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 conviction and sentence should be granted and the appeal should be dismissed.


**Chandra JA**

- [5] I agree.

Order:

*Appeal against conviction and sentence is dismissed.*



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

  
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Hon Mr Justice S Chandra  
**JUSTICE OF APPEAL**