

IN THE COURT OF APPEAL
ON APPEAL FROM THE HIGH COURT

CRIMINAL APPEAL NO. AAU 115 OF 2011
(High Court HAA 19 of 2011 Labasa)

BETWEEN : ISIKELI MAIVATUSEI CANIOGO
ESAVA DUASUVA TAKISUA

Appellants

AND : THE STATE

Respondent

Coram : Calanchini P
Almeida Guneratne JA
Fernando JA

Counsel : No appearance for the Appellants
Mr S Vodokisolomone for the Respondent

Date of Hearing : 18 May 2015

Date of Judgment : 6 July 2015

JUDGMENT OF THE COURT

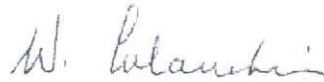
[1] Pursuant to extended jurisdiction the Appellants were convicted on 19 April 2011 in the Magistrates Court at Labasa on the charge of aggravated robbery contrary to section 311 (1) (a) of the Crimes Decree 2009. The Appellants had pleaded guilty to the charge.

- [2] On 27 July 2011 the Appellants were each sentenced to a term of 3 years imprisonment with a non-parole term of 2 years.
- [3] The Appellants subsequently filed appeals against their convictions and sentences in the High Court. On 30 September 2011 the High Court dismissed the appeals on the basis that the High Court had no jurisdiction to hear the appeals. Since the Magistrate was exercising an extended or vested jurisdiction from the High Court, any appeal must be to the Court of Appeal.
- [4] The Appellants first filed a notice and grounds of appeal in the Court of Appeal on 21 October 2011. The appeal was within time. The appellants challenged both the decision of the High Court and their convictions in the Magistrates Court.
- [5] On 28 June 2013 the Appellants were granted leave to appeal against conviction on three of the grounds of appeal. The appeals against sentence were not pursued in this Court.
- [6] On 14 August 2013 a Notice of Abandonment of Appeal under Rule 39 of the Court of Appeal Rules was filed on behalf of the Appellants. A second notice was filed on 8 April 2015. The applications to abandon were listed for mention on 10 April 2015. On that day Mr Vosarogo appeared for the Appellants, instructed by Penijamini R Lomaloma Esq. of Labasa. The applications were listed for hearing before the Court of Appeal on 18 May 2015 at 11.30am.
- [7] When the applications were called for hearing on 18 May 2015 there was no appearance by or on behalf of the Appellants. I am satisfied from the information on the Court file that the legal practitioner acting for the Appellants had sufficient notice of the date and time of the application. Due to the absence of the Appellants the Court could not comply with the requirements specified by the Supreme Court in the decision of Masirewa –v- The State (unreported CAV 14 of 2008; 17 August 2010).

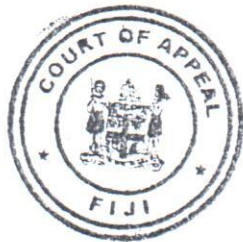
[8] As the Appellants have not provided an address for service following their release from custody and since their legal practitioner has not appeared on their behalf the Court is left with no choice but to dismiss the appeals.

Order:

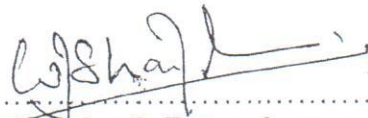
Appeals dismissed.



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Hon. Justice W. Calanchini
PRESIDENT, COURT OF APPEAL



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Hon. Justice Almeida Guneratne
JUSTICE OF APPEAL



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Hon. Justice S. Fernando
JUSTICE OF APPEAL