

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

CRIMINAL APPEAL AAU 31 OF 2016  
(High Court HAA 20 of 2015)  
(Magistrates Court No: 636 of 2014)

BETWEEN : JOSEFA RADAVETA *Appellant*

AND : THE STATE *Respondent*

Coram : Calanchini P  
Chandra JA

Counsel : Mr M Fesaitu for the Appellant  
Mr S Vodokisolomone for the Respondent

Date of Hearing : 26 September 2018

Date of Ruling : 29 October 2018

RULING

Calanchini P

[1] The appellant was convicted on his plea of guilty in the Magistrates Court on one count of robbery and one count of theft. He was sentenced to 51 months imprisonment with a non-parole term of 45 months. On appeal to the High Court the appellant on advice withdrew his conviction appeal and the High Court reduced the non-parole term to 39 months.

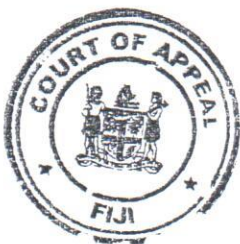
- [2] The Appellant subsequently filed a timely notice of appeal against conviction and sentence as a section 22 appeal. On 12 June 2018 the Appellant filed a second application to abandon both the appeal against conviction and sentence pursuant to Rule 39 of the Court of Appeal Rules.
- [3] In accordance 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. He confirmed that he wanted to withdraw the appeal against conviction because it was a section 22 appeal on a question of law only. He also informed the Court that he has been advised of his anticipated release date.
- [4] Under the circumstances the application to abandon the appeal against conviction and sentence is 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