

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

CRIMINAL APPEAL AAU 40 OF 2015  
(High Court HAC 43 of 2014)

BETWEEN : IOWANE APISAI DRAIVA  
*Appellant*

AND : THE STATE  
*Respondent*

Coram : Calanchini P  
Chandra JA

Counsel : Mr M Fesaitu for the Appellant  
Mr R Kumar for the Respondent

Date of Hearing : 26 September 2018

Date of Ruling : 29 October 2018

RULING

Calanchini P

[1] Following a trial in the High Court at Lautoka the appellant was convicted on one count of importing a controlled chemical without lawful authority. The appellant was sentenced to 5 years imprisonment with a non-parole term of 3 years.

- [2] The Appellant subsequently filed a timely notice of appeal against conviction and sentence. On 2 May 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 applications to abandon the appeals were listed for hearing before the Court of Appeal. At the hearing the appellant Deo 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. His reason for abandoning his appeals was that he had received notice 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**

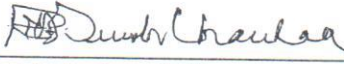
- [5] I agree.

Order:

*Appeals against conviction and sentence are dismissed.*



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

  
Hon Mr Justice S Chandra  
JUSTICE OF APPEAL