

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

CRIMINAL APPEAL AAU 161 OF 2015
(High Court HAC 17 of 2015)

BETWEEN : TOMASI RABUKA
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] On his own plea of guilty in the High Court the appellant was convicted on one count of cultivating an illicit drug. On 27 August 2015 the appellant was sentenced to 9 years imprisonment with a non-parole term of 6 years.

- [2] The Appellant subsequently filed a notice of appeal against sentence that was out of time by about 1 month. On 11 May 2018 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 he had received legal advice and that he understood the consequences in the event that his application were granted. He stated that he accepted his sentence.
- [4] Under the circumstances the application to abandon the appeal against sentence is granted and the appeal is dismissed.

Chandra JA

- [5] I agree.

Order:

Appeals 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