

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

**CRIMINAL APPEAL NO. AAU 159 OF 2015**  
(Magistrates Court No: 17 of 2012 at Nasinu)

**BETWEEN** : **SALENDRA BRIJ DEO**  
*Appellant*

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

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

**Counsel** : **Ms S Nasedra for the Appellant**  
**Mr R Kumar for the Respondent**

**Date of Hearing** : **22 November 2018**

**Date of Ruling** : **30 November 2018**

**RULING**

**Calanchini P**

[1] The Appellant was convicted in the Magistrates Court at Nasinu exercising extended jurisdiction on one count of aggravated robbery. He was sentenced to 5 years 8 months imprisonment on that offence and for another theft offence to which he pleaded guilty he was sentenced to 24 months imprisonment.

- [2] The Appellant subsequently filed a notice of appeal against sentence that was out of time by about 2 months. On 10 August 2018 the Appellant filed an application to abandon his late 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) that 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] The basis of the appeal was a clerical error in the preparation of the warrant that showed a cumulative sentence of 7 years 8 months in contravention of section 22(1) of the Sentencing and Penalties Act 2009. The clerical error in the warrant is a matter for the Nasinu Magistrates Court.
- [5] Under the circumstances the application to abandon the appeal against sentence is granted and the appeal is dismissed.

**Chandra JA**

- [5] I agree.

Orders:

*Appeal 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**