

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

CRIMINAL APPEAL NO. AAU 173 OF 2016
(Magistrates Court No: 944 of 2015 at Nadi)

BETWEEN : **NIRAJ NITIN KUMAR** *Appellant*

AND : **THE STATE** *Respondent*

Coram : **Calanchini P**
Chandra JA

Counsel : **Mr T Lee for the Appellant**
Mr M Vosawale for the Respondent

Date of Hearing : **22 November 2018**

Date of Ruling : **30 November 2018**

RULING

Calanchini P

- [1] The appellant with one other (Ravneel Rajnesh Kumar) was convicted on his plea of guilty in the Magistrates Court exercising extended jurisdiction of the High Court on one count of aggravated burglary and one count of theft. On 3 June 2016 the appellant was sentenced to 2 years 10 months 13 days imprisonment with a non-parole term of 2 years.

- [2] The Appellant subsequently filed a notice of appeal against conviction and sentence that was out of time by about 4 months. On 25 April 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) that application to abandon the late 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 has been advised that his release date is in December 2018.
- [4] Under the circumstances the application to abandon the late appeal against conviction and sentence is granted and the appeals are dismissed.


Chandra JA

- [5] I agree.

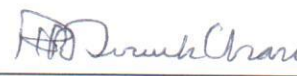
Orders:

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