

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

**CRIMINAL APPEAL AAU 0131 OF 2014**  
(Magistrates Court No: 1284 of 2011)

**BETWEEN** : MANASA TARAKI  
*Appellant*

**AND** : THE STATE  
*Respondent*

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

**Counsel** : Mr T Lee for the Appellant  
Ms P Madanavosa for the Respondent

**Date of Hearing** : 17 May 2018

**Date of Ruling** : 1 June 2018

**RULING**

**Calanchini P**

[1] The appellant was convicted on his plea of guilty in the Magistrates Court at Nausori exercising the extended jurisdiction of the High Court on one count of aggravated

robbery. On 29 September 2014 he was sentenced to 7 years imprisonment with a non-parole term of 4 years. The learned Magistrate noted that the time spend in remand “*will be deducted from his sentence.*”

- [2] The Appellant subsequently filed a timely notice of appeal against sentence. Although documents dated much later purport to raise grounds relating to an appeal against conviction, there was no formal notice of appeal against conviction filed nor was there filed any application for an enlargement of time. On 30 January 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 eventually 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] Under the circumstances the application to abandon the appeal against sentence is granted and the appeal is dismissed. To the extent that it is necessary the appeal against conviction is dismissed as it is out of time.

**Chandra JA**

- [5] I agree.

**Bandara JA**

- [6] I agree.

Orders:

*Appeal against conviction and sentence is dismissed.*

*W. Calanchini*

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



*S Chandra*

Hon. Justice S Chandra  
**JUSTICE OF APPEAL**

*W Bandara*

Hon. Justice W Bandara  
**JUSTICE OF APPEAL**