

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

**CRIMINAL APPEAL NO. AAU 27 OF 2017**  
(Magistrates Court No: 628 of 2015 at Lautoka)

**BETWEEN** : **MOSESE BOLALELE** *Appellant*

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

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

**Counsel** : **Mr T Lee for the Appellant**  
**Ms S Tivao for the Respondent**

**Date of Hearing** : **24 May 2019**

**Date of Ruling** : **27 June 2019**

**RULING**

**Calanchini P**

[1] The appellant was convicted on his plea of guilty on one count of aggravated robbery by the Magistrates Court at Lautoka exercising extended jurisdiction. On 5 August 2016 the appellant was sentenced to 4 years imprisonment with a non-parole term of 2 years.

- [2] The Appellant subsequently filed a notice of appeal against sentence that was out of time by about 3 months. On 28 January 2019 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 although he had not received legal advice, he understood the consequences in the event that his application were granted.
- [4] Under the circumstances the application to abandon the appeal against sentence should be granted and the appeal dismissed.

**Chandra JA**

- [5] I agree.

Order:

*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**