

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

**CRIMINAL APPEAL NO. AAU 52 OF 2018**  
(Magistrates Court No: 1167 of 2015 at Suva)

**BETWEEN** : **PITA DOMONI** *Appellant*

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

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

**Counsel** : **Mr M Fesaitu for the Appellant**  
**Ms W Elo for the Respondent**

**Date of Hearing** : **2 October 2019**

**Date of Ruling** : **25 October 2019**

**RULING**

**Calanchini P**

[1] The appellant was convicted on his plea of guilty on counts of aggravated burglary and theft by the Magistrates Court at Suva exercising extended jurisdiction. On 4 January

2018 the appellant was sentenced to 4 years 10 months imprisonment with a non-parole term of 3 years.

- [2] The Appellant subsequently filed a notice of appeal against conviction and sentence that was out of time by 4 months. On 25 June 2019 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) 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.
- [4] Under the circumstances the application to abandon the appeal against conviction and sentence is granted and the appeal is dismissed.


**Chandra JA**


- [5] I agree.

Order:

*Appeal against conviction and sentence is dismissed.*



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

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