

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

**CRIMINAL APPEAL NO. AAU 92 OF 2018**  
(Magistrates Court No: 945 of 2013 at Nadi)

**BETWEEN** : **SEFTON TUPOU MATEINANIU** *Appellant*

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

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

**Counsel** : **Mr M Fesaitu for the Appellant**  
**Ms S Tivao for the Respondent**

**Date of Hearing** : **18 February 2019**

**Date of Ruling** : **29 March 2019**

**RULING**

**Calanchini P**

- [1] The appellant was convicted on his plea of guilty by the Magistrates Court at Nadi exercising the extended jurisdiction of the High Court on one count of aggravated robbery. On 29 December 2017 the appellant was sentenced to a term of imprisonment of 4 years, 4 months and 16 days with a non-parole term of 3 years to be served concurrently with any existing sentence.

- [2] The Appellant subsequently filed a notice of appeal against sentence that was out of time by almost 8 months. On 26 November 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 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] On 10 December 2018 the appellant filed a summons seeking leave to appeal against conviction out of time. That application will be listed for further mention on a date to be fixed.
- [5] Under the circumstances the application to abandon the appeal against sentence should be granted and the appeal should be dismissed.

**Chandra JA**

- [6] I agree.

Orders:

1. *Appeal against sentence is dismissed.*
2. *The application for leave to appeal conviction out of time is to be listed for mention on a date to be fixed.*



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

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