

IN THE COURT OF APPEAL, FIJI
ON APPEAL FROM THE HIGH COURT OF FIJI

CRIMINAL APPEAL NO. AAU 63 OF 2015
(High Court HAC 157 of 2013)

BETWEEN : **TOMASI BAGAGA** *Appellant*

AND : **THE STATE** *Respondent*

Coram : **Calanchini P**
Chandra JA

Counsel : **Ms S Nasedra for the Appellant**
Mr R Kumar for the Respondent

Date of Hearing : **13 February 2019**

Date of Ruling : **29 March 2019**

RULING

Calanchini P

- [1] Following a trial in the High Court (in the absence of the appellant but with Counsel present) the appellant was convicted on one count of unlawful cultivation of 5.5kg of cannabis sativa. On 27 February 2015 the appellant was sentenced to a term of imprisonment of 8 years with a non-parole term of 6 years.

- [2] The Appellant subsequently filed a notice of appeal against conviction and sentence that was out of time by about 2 months. On 2 November 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) 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 should be granted and the appeal should be dismissed.


Chandra JA

- [5] I agree.

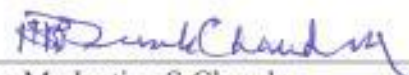
Order:

Appeal against conviction and sentence is dismissed.





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



Hon Mr Justice S Chandra
JUSTICE OF APPEAL