

**IN THE COURT OF APPEAL, FIJI**  
**ON APPEAL FROM THE MAGISTRATES COURT**  
*(exercising extended jurisdiction)*

**CRIMINAL APPEAL AAU 19 of 2015**  
**(Magistrates Court No. 35 of 2012 at Nadi)**

**BETWEEN** : **APOLOSI BOLATUKU** *Appellant*

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

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

**Counsel** : **Ms S Nasedra for the Appellant**  
**Ms P Madanavosa for the Respondent**

**Date of Hearing** : **2 July 2018**

**Date of Ruling** : **13 July 2018**

**RULING**

[1] The appellant, along with two others, was charged with one count of aggravated robbery and pleaded guilty. The other two co-offenders pleaded not guilty. The appellant was sentenced to a term of imprisonment of 5 years and 8 months with a non-parole term of 4 years. He subsequently filed a notice of appeal against sentence that was out of time by about two years. On 2 May 2018 the appellant filed a signed application to abandon his appeal against sentence pursuant to Rule 39 of the Court of Appeal Rules.

[2] 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 against sentence 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. His reason for abandoning the appeal against sentence was an anticipated date of release in November 2018.

[3] Under the circumstances the application to abandon the appeal against sentence should be granted and the appeal should be dismissed.

**Chandra JA**

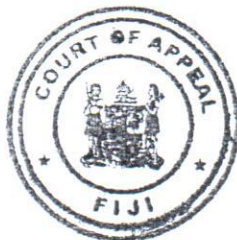
[4] I agree.

**Aluthge JA**

[5] I agree.

Orders:

*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

*A Aluthge*  
.....  
Hon. Mr. Justice A Aluthge  
JUSTICE OF APPEAL