

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

CRIMINAL APPEAL AAU 0058 OF 2016
(HAA 1 of 2015)
(Magistrates Court No: 56 of 2015 at Savusavu)

BETWEEN : **SERU NAIBUKANISA MATAITOGA**
Appellant

AND : **THE STATE**
Respondent

Coram : **Calanchini P**
Chandra JA

Counsel : **Mr M Fesaitu for the Appellant**
Mr M Vosawale for the Respondent

Date of Hearing : **22 February 2018**

Date of Ruling : **29 March 2018**

RULING

Calanchini P

[1] The Appellant was convicted on one count of being in possession of illicit drugs by the Magistrates Court at Savusavu. He was sentenced to 4 years 2 months imprisonment with a non-parole term of 3 years. He then appealed his conviction and sentence to the High Court at Suva. The appeal against conviction and sentence was dismissed.

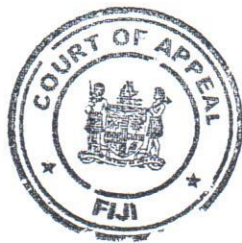
- [2] The Appellant subsequently filed a notice of appeal against conviction and sentence that was out of time by about 2 months. On 17 November 2017 the Appellant filed an application to abandon his appeal against conviction and sentence pursuant to Rule 39 of the Court of Appeal Rules.
- [3] In accordance 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 was granted. He informed that his due release date had been notified to him.
- [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.

Orders:

Appeal against conviction and 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