

IN THE COURT OF APPEAL
ON APPEAL FROM THE HIGH COURT

CRIMINAL APPEAL AAU0062 of 2013
(High Court HAC 0045 of 2013L)

BETWEEN

:

MARISIALE BETE

Appellant

AND

:

THE STATE

Respondent

Coram

:

Calanchini P
Kumararatnam JA

Counsel

:

Ms N Nawasaitoga for the Appellant
Mr L Fotofili for the Respondent

Date of Hearing

:

10 September 2014

Date of Ruling

:

13th October 2014

RULING

Calanchini P

[1] I agree that the appeal should be dismissed.

Kumararatnam JA

- [2] The Appellant had been charged with one count of aggravated robbery contrary to Section 311 of the Crimes Decree No: 44 of 2009. He was convicted by the High Court at Lautoka on 16 May 2013 following a plea of guilty and sentenced to a term of imprisonment of 3¹/₂ years with a non-parole term of 2¹/₂ years. He subsequently appealed against sentence on 30/05/2013.
- [3] When his application for leave came before a single judge of the Court on 01 July 2014 the Appellant indicated that he wanted to abandon his appeal. The Appellant had filed his notice of abandonment of appeal on 20 June 2014.
- [4] In accordance with the Supreme Court decision in Masirewa v The State (unreported CAV 14 of 2008; 17 August 2010) the learned Justice of Appeal referred the application to the Full Court for determination under Rule 39 of the Court of Appeal Rules.
- [5] The President of Court of Appeal acting under Section 6(2) of Court of Appeal Act directed that the Court be constituted by two judges to hear this application.
- [6] The Appellant at the hearing stated that he was not aware of his appeal against the sentence but wanted to abandon his appeal as he would be released from the prison after serving the non-parole period. He also confirmed that his application had been made voluntarily and without any inducement. Under those circumstances the application to abandon the appeal should be granted and the appeal is dismissed.

Order:

Appeal dismissed.



W. Calanchini

HON. MR JUSTICE CALANCHINI
PRESIDENT COURT OF APPEAL

Jm

HON. MR JUSTICE KUMARARATNAM
JUSTICE OF APPEAL