

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

CRIMINAL APPEAL AAU 151 OF 2015
(Magistrates Court No: 70 of 2015 at Nausori)

BETWEEN : **APETE HERITAGE**

Appellant

AND : **THE STATE**

Respondent

Coram : **Calanchini P**
Prematilaka JA

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

Date of Hearing : **20 November 2017**

Date of Ruling : **14 December 2017**

RULING


- [1] The Appellant was convicted by the Magistrates Court at Nausori exercising jurisdiction on one count of aiding and abetting aggravated burglary. He was sentenced to a term of imprisonment of 2 years.

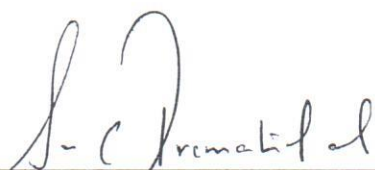
- [2] The Appellant subsequently filed a timely notice of appeal against sentence. On 4 April 2016 the Appellant filed an application to abandon his appeal against sentence pursuant to Rule 39 of the Court of Appeal Rules.
- [3] In accordance with the decision of the Supreme Court in Masirewa -v- The 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 although he had not received legal advice he understood the consequences in the event that his application were granted. Furthermore, this particular sentence has now been fully served.
- [4] Under the circumstances the application to abandon the appeal against sentence is granted and the appeal is dismissed.

Orders:

Appeal against sentence is dismissed.




Hon Mr Justice Calanchini
PRESIDENT, COURT OF APPEAL


Hon Mr Justice Prematilaka
JUSTICE OF APPEAL