

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

CRIMINAL APPEAL NO. AAU 89 OF 2015
(High Court HAC 26 of 2013)

BETWEEN : ATUNAISA RARALEVU
Appellant

AND : THE STATE
Respondent

Coram : Calanchini P
Chandra JA

Counsel : Mr T Lee for the Appellant
Ms S Tivao for the Respondent

Date of Hearing : 20 May 2019

Date of Ruling : 27 June 2019

RULING

Calanchini P

- [1] Following a trial in the High Court at Suva the appellant was convicted on one count of arson. On 22 May 2015 the appellant was sentenced to 4 years imprisonment with a non-parole term of 3 years.

- [2] The Appellant subsequently filed a timely notice of appeal against sentence. On 2 May 2018 the Appellant filed a second application to abandon his appeal against sentence pursuant to Rule 39 of the Court of Appeal Rules. An earlier application had been withdrawn by the appellant at the hearing.
- [3] In accordance with the decision of the Supreme Court in **Masirewa –v- The State** (CAV 14 of 2008; 17 August 2010) this second application to abandon the appeal was listed for hearing before the Court of Appeal
- [4] The appellant did not appear at the hearing of this second application. The Court was informed that he had served his sentence and had been discharged. He had not provided any forwarding address.
- [5] Under the circumstances the appeal against sentence should be dismissed under section 35(2) of the Court of Appeal Act..


Chandra JA


- [6] I agree.

Order:

Appeal against sentence is dismissed.




Hon Mr Justice W D Calanchini
PRESIDENT, COURT OF APPEAL


Hon Mr Justice S Chandra
JUSTICE OF APPEAL