

IN THE COURT OF APPEAL
ON APPEAL FROM THE HIGH COURT

Criminal Appeal No: AAU 0020 of 2010
(High Court Case No: HAC 009 of 2008)

BETWEEN : **METUISELA MUA**

Appellant

AND : **THE STATE**

Respondent

Coram : **Basnayake JA**
A. Fernando JA
Jayamanne JA

Counsel : **Appellant in person**
Mr. M.D. Korovou for the Respondent

Date of Hearing : **11 February 2016**

Date of Judgment : **26 February 2016**

JUDGMENT

Basnayake JA

[1] This is an application for withdrawal of appeal.

[2] The appellant together with several others were convicted for conspiring to commit murder of Commodore Voreqe Bainimarama, contrary to section 217 of the Penal Code. The appellant was sentenced on 5 March 2010 to a term of 3 years and 6 months. The appellant together with others lodged a Notice of Appeal through the Officer in Charge of Suva Prison on 14 April 2010 against the conviction and the sentence.

- [3] On 12 May 2010 (received by court on 24 May 2010) the appellant together with others have filed an application for leave to appeal out of time.
- [4] On 4 July 2015 (received on 14 July 2015) the appellant had sent a letter to the President of the Court of Appeal seeking permission to withdraw his appeal as he had served the sentence.
- [5] When this case was called in court on 11 February 2016 the appellant was present in court. He appeared in person. He acknowledged to having sent the letter dated 4 July 2015. He said in court in answer to questions by court that he does not wish to proceed with this case as he had served the sentence. He stated to court that the application for withdrawal was made on his own freewill and that no one used any kind of force or duress.
- [6] He was advised by court that in the event of allowing this application, that his appeal would be dismissed and that he would be prevented from re-agitating.
- [7] I am of the view that the appellant moved to withdraw this application on his own volition and without any force or duress by any one. Hence I allow this application for abandonment and the appeal is thus dismissed.

A. Fernando JA

- [8] I agree that the application should be allowed and that the appeal be dismissed.

S. Jayamanne JA

[9] I too agree that this appeal be dismissed.

The Orders of the Court are:

1. *Application to withdraw the appeal is allowed.*
2. *The appeal is dismissed*



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Hon. Mr. Justice E. Basnayake
JUSTICE OF APPEAL



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Hon. Mr. Justice A. Fernando
JUSTICE OF APPEAL



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Hon. Mr. Justice S. Jayamanne
JUSTICE OF APPEAL