

IN THE COURT OF APPEAL, FIJI ISLANDS
AT SUVA
APPELLATE JURISDICTION

CRIMINAL APPEAL NO: AAU0024 of 2009

BETWEEN:

SATEKI FIFITA

Appellant

AND:

THE STATE

Respondent

Coram: Byrne P
Goundar JA

Hearing & Judgment: 2nd June 2010

Counsel: Ms S. Vaniqi for Appellant
Ms S. Puamau for State

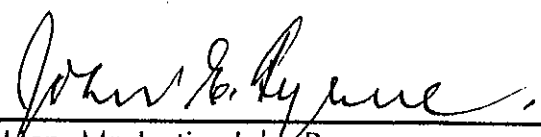
JUDGMENT OF THE COURT


- [1] On 23 February 2009, the appellant was sentenced to 2½ years imprisonment by the Sigatoka Magistrates' Court exercising extended jurisdiction under the seal of the High Court.
- [2] He filed a timely appeal against sentence to this Court and on 3 October 2009, was granted leave to appeal by a single judge.

- [3] Leave was granted on the ground that the learned Magistrate failed to take into account the previous good character of the appellant to reduce the sentence.
- [4] In his sentencing remarks, the learned magistrate picked 3 years as a starting point and reduced that term by 6 months to reflect the guilty plea and mitigating factors. The learned Magistrate arrived at a term of 2½ years imprisonment, which was imposed on the appellant.
- [5] At the hearing, counsel for the appellant also raised an issue about the length of discount given to the appellant for his guilty plea. Counsel submits that the learned Magistrate gave inadequate weight to the appellant's guilty plea.
- [6] Although the appellant's guilty plea was made late, he should have been given some reduction in sentence to reflect the fact that he had saved court time and resources. Also, substantial discount should have been given to the appellant's previous good character.
- [7] It is a recognized principle that where there is evidence of good character, that good character may operate to reduce the sentence which would otherwise have been imposed. Section 2 of the **Sentencing and Penalties Decree 2009** provides that a court must have regard to these factors when sentencing an offender.
- [8] We have been referred to a case of **State v. Tukai Taura** Criminal Case No. HAC 146 of 2008, where the offender was sentenced to 12 months imprisonment upon pleading guilty to possession of 114.6 grams of cannabis. In that case, the offender had previous convictions including that of possession of illicit drug.

- [9] The circumstances of the present case are similar to the case of *Taura* (supra) except that the quantity is slightly more in the present case.
- [10] After taking into account the guilty plea of the appellant and his previous good character, a term of 15 months imprisonment is just and appropriate. Since the drugs were for the purpose of supply, suspension of sentence would have been inappropriate.
- [11] For the reasons given, we allow the appeal against sentence. The term of 2½ years imprisonment imposed by the Magistrates' Court is quashed and a term of 15 months imprisonment is substituted, effective from 23 February 2009.




Hon. Mr. Justice John Byrne
President, Court of Appeal


Hon. Mr. Justice Daniel Goundar
Judge of Appeal

Solicitors:

Office of the Legal Aid Commission for Appellant
Office of the Director of Public Prosecutions for State