

IN THE HIGH COURT OF FIJI
AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO.: HAC 197 OF 2008

BETWEEN:

THE STATE

Complainant

AND:

JOHN RAIVOTU

Accused

Counsel: Ms. L. Lagilevu for the State
Accused in Person

Date of Hearing: Friday 16 January 2009

Date of Sentence: Friday 23 January 2009

SENTENCE

[1] John Raivotu, you are convicted on your own plea of guilty to the following offence:

Statement of Offence

UNLAWFUL POSSESSION OF ILLICIT DRUGS: Contrary to Section 5(a) of the Illicit Drugs Control Act, 2004

Particulars of Offence

JOHN RAIVOTU, on the 10th day of January 2008, at Suva in the Central Division, without lawful authority, possessed 79.6 grams of Cannabis, an Illicit Drug.

- [2] The facts are that on 18 January 2008 the police raided your house at Wailea Settlement, Vatuwaqa and found dried leaves, wrapped and hidden in plastic bags. The leaves were seized and tested. The leaves were found to be Cannabis.
- [3] You are a serving prisoner. On 6 July 2008 you were sentenced to 15 months imprisonment for a similar offence. You also have a similar conviction in 2004. On 1 November 2008 you were sentenced to 9 months imprisonment for breaking and larceny, concurrent to the pre-existing sentence.
- [4] You seek concurrent sentence for this offence. You are 35 years old and married with a child.
- [5] Your only compelling mitigating factor is your guilty plea. You are not entitled to any credit for previous good character. Your criminal record is appalling albeit I have disregarded convictions which are more than 10 years old.
- [6] The aggravating factor is that you possessed drugs for a commercial purpose. The large quantity and the manner in which the drugs were wrapped show you are a drug dealer.
- [7] The tariff for possession of Cannabis for a commercial purpose with the object of deriving profit is between 2 to 4 years (**Bavesi v State**, Criminal Appeal No. HAA027 of 2004). A lower starting point is justified where the sales are limited and infrequent. I use 2 years as my starting point. I add 6 months for the

aggravating factor and reduce 12 months for the guilty plea. The final term is 18 months imprisonment.

[8] Generally, consecutive sentences should be imposed for separate offences in order to deter the offenders from making criminal hay while the sun shines. However, there is a limitation to this principle. The limitation is that the court has to be satisfied that the total overall sentence for all the offences would not have a crushing effect on the offender. If the court is not so satisfied, a just result could be reached by lowering the sentence below what would otherwise be appropriate. I have decided to that in this case and reduce the sentence to 12 months imprisonment.

[9] Your sentence is 12 months imprisonment consecutive to any pre-existing sentence.

[10] Drugs to be destroyed within 14 days.

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Daniel Goundar
JUDGE

At Suva
Friday 23 January 2009

Solicitors:

Office of the Director of Public Prosecutions, Suva for the State
Accused in Person