

IN THE HIGH COURT OF FIJI

AT LAUTOKA

CRIMINAL JURISDICTION

Criminal Case No. HAC 004 of 2009

STATE

v

SEMISI WAQA

Date of Hearing : 6th March 2009
Date of Sentence : 11th March 2009

Counsel : Ms. V. Lidise for the State
Accused in person

SENTENCE

1. The accused was convicted on his own plea of guilty to possession of 1.3 grams of cannabis. If the accused was a first offender for this type of offending he would have probably been fined.
2. However, his previous convictions show that he has been convicted on 18th May 2007 for possession of dangerous drugs. He was sentenced to 2 years imprisonment suspended for three years. The Magistrates Court file has not been made available to me.

3. On 14th August 2007 he was convicted for the offence of indecent exposure and sentenced to 2 years imprisonment suspended for 3 years.
4. Again on 21/12/07 he was convicted for possession of illicit drugs and sentenced to six months imprisonment suspended for 18 months.
5. Hence within a space of 7 months the same Magistrate Court imposed three suspended sentence on this accused.
6. This Court had sought the three files from the Magistrates Court as early in 13th February 2009 but only two files have been released to us.
7. The delay I believe was due to the fact that an incorrect file number was given by the prosecution in the list of previous convictions.
8. I have before me two files 431/06 – possession of illicit drugs and 480/06 where the offence is indecent exposure.
9. In the normal course, the Learned Magistrate who dealt with the accused on 21st December 2007 would have activated two year suspended sentence imposed on 14th August 2007. However, the list of previous convictions given to the Magistrate did not disclose the previous suspended sentence. So it was not activated.
10. Having convicted the accused now, the issue is do I activate both the previous convictions and secondly do I activate the entire

sentence or part of it. Thirdly do I make them consecutive to one another and to any term I impose now.

11. If I activate both sentences– and make them consecutive, the accused would serve a total of 2 years, six months imprisonment which I believe is excessive. He had kept out of trouble for roughly a year since his conviction for indecent exposure.
12. I note his plea of guilty and the fact that he suffers from blurred vision so prison may not be the ideal place for him. However, I cannot ignore his previous conviction.
13. I activate 18 months of his suspended sentence in Criminal Case 480/06 for indecent exposure and the six months in Criminal Case 431/06 (Possession of Illicit Drugs). Both these sentence is to be concurrent.
14. The accused has been in remand since 13th February, I impose one month imprisonment for this offence as he has previous conviction for similar offence. The accused will therefore serve a total of 19 months imprisonment.
15. I have endorsed the activation of suspended sentence in the Magistrates Court folders.

[**Jiten Singh**]
Judge

At Lautoka
11th March 2009.