

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

**CRIMINAL APPEAL NO. AAU0061 OF 2006S**  
(High Court Criminal Action No. HAC 071 of 2006S)

**BETWEEN:**            **LEONE MARAWA**

***Appellant***

**AND:**                **THE STATE**

***Respondent***

**Coram:**            Ward, President  
                         Ellis, JA  
                         McPherson, JA

**Hearing:**            Tuesday, 19<sup>th</sup> June 2007, Suva

**Counsel:**            Appellant in Person  
                         W Kurisaqila for the Respondent

**Date of Judgment:** Monday, 25<sup>th</sup> June 2007, Suva

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**JUDGMENT OF THE COURT**

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[1]    The applicant for leave to appeal against sentence is Leone Navuni also known as Leone Marawa, which is the name under which he was in this instance prosecuted and pleaded guilty to one count of being in possession of Cannabis sativa contrary to s.5(a) of the Illicit Drugs Control Act 2004.

[2]    The circumstances of the offence are that on 4 June 2006 he was brought to the Central Police Station on suspicion of theft. On being searched, two packets of leafy material were found in his shirt pocket. On analysis they proved to be Cannabis sativa in an amount of 1.3 grams.

- [3] The applicant is a casual labourer aged 38, educated to Form 6 and with a daughter to support. At the time of his conviction of this offence on 20 October 2006, he was a serving prisoner, having been sentenced to imprisonment for 12 months on an earlier offence.
- [4] The applicant asked that his sentence on 20 October be made concurrent with that offence. However, the learned sentencing Judge said that, although her Lordship might otherwise have considered making the term concurrent, the applicant was a repeat offender and so must be sentenced to a consecutive term. He was thereupon sentenced to imprisonment for 8 months for the offence of which he was convicted on 20 October 2006, which was ordered to be served consecutively upon the sentence of 12 months imposed on 3 July 2006.
- [5] His appeal is based essentially on the ground that the later sentence should have been made concurrent. As to the duration of the particular sentence imposed on 20 October 2006, the learned Judge said that the tariff penalty for possession for personal use of this drug was 6 to 9 months imprisonment. Her Lordship imposed a term of 8 months, which taken with the earlier sentence, aggregated a total term of 20 months for the two offences.
- [6] There seems little doubt that the applicant has a drug addiction. Since 1981 he has sustained some 32 recorded convictions for a variety of offences. Some of them have been of little real consequence; but his record includes eight convictions for larceny, and a further three for house, office or shop breaking. In a number of these cases in 1989 he was sentenced to suspended periods of imprisonment, but he re-offended soon afterwards. On his record he has six drug offences since 2000. In 2002 he was sentenced to imprisonment for 2 years, reduced on appeal to 1 year, for attempted robbery. He also has three recorded convictions for damaging property, one of which in 2003 attracted a sentence of 6 months, while the others were visited with suspended sentences.

- [7] Given the tariff referred to by the sentencing Judge, it is difficult to see why the subject sentence should have been made concurrent. They were separate offences although the later offence followed pretty soon after the earlier offence of the same kind. While one may have some sympathy with the applicant's complaint about the time he is having to spend in prison, it is the direct result of his persistence in offending in a large number of different forms and different occasions.
- [8] At the age of 38 which he has now attained there seems to be little hope that he is about to mend his ways. The earlier opportunities for rehabilitation in his case when he was younger were not made use of. In these circumstances he has reached the stage where he can no longer expect any more favours when he offends yet again, as he has done here.
- [9] The learned Judge made no error in sentencing the applicant. His application for leave to appeal must be dismissed.



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Ward, President

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Ellis, JA

*[Handwritten signature]*

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McPherson, JA

**Solicitors:**

**Appellant in Person**

**Office of the Director of Public Prosecutions, Suva for the Respondent**