

IN THE HIGH COURT OF FIJI
AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO.: HAC 023 OF 2008

BETWEEN:

THE STATE

AND:

SARAH LOUISE BORBA

Counsel: Mr. D. Toganivalu for the State
Mr. G. O'Driscoll for the Accused

Date of Hearing: 28th February, 2008
Date of Sentence: 29th February, 2008

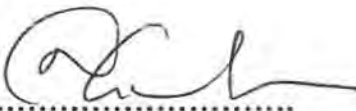
SENTENCE

- [1] Sarah you have pleaded guilty to the offence of being 'In Possession of an Illicit Drug', contrary to section 5 of the Illicit Drugs Control Act of 2004.
- [2] Your counsel has assured this Court that you have pleaded guilty out of your free will after advisement of your rights.
- [3] I accept your plea of guilty and convict you accordingly.
- [4] On 12th November 2007, you were arrested by the police in the Nausori town on suspicion of being in possession of drugs. You were brought to the Nausori Police Station where a woman police officer searched you. The police officer found dried leaves wrapped in foil hidden inside your under garments. You were caution interviewed and you admitted the offence.

- [5] The leaves were tested and they were found to be Indian Hemp commonly known as marijuana weighing 23.7 grams.
- [6] You are 22 years old and married. You are an American citizen but presently you are residing in Fiji because you are married to a local. You have a child in U.S.A. and currently you are seven weeks pregnant with your second child.
- [7] You have no previous criminal history. You also have no history of drug use. You deserve credit for your previous good character.
- [8] I accept that you have co-operated with the police and you have pleaded guilty at the first reasonable opportunity. I accept you are remorseful.
- [9] Your counsel has informed the Court that the marijuana was for personal use. The State has not disputed this claim.
- [10] I therefore accept the drugs were for your personal use. Sarah, possession of marijuana even for personal use is a very serious offence in Fiji. The maximum sentence for this offence is a fine not exceeding \$1 million or imprisonment for life or both.
- [11] The legislature must have been concerned about the prevalence of illicit drug use and supply in Fiji when prescribing such harsh penalties for those convicted of illicit drug offences.
- [11] Possession of marijuana for personal use is prevalent in Fiji. This is apparent from the number of cases of possession that comes before the courts. Severe punishments are generally imposed to deter the offenders and others from committing this offence.
- [12] However, each case should be considered on its own facts.
- [13] Sarah, I do not understand why you are using marijuana when you are expecting a child. I hope you realize the harm that may come with the use of marijuana.

- [14] After taking into account your prompt guilty plea, age, good character, pregnancy, no previous history of drug use, and the quantity and purpose of drugs, I sentence you to 9 months imprisonment suspended for 2 years. I find your young age, previous good character and pregnancy constitutes special circumstances to justify the suspension of your imprisonment sentence. If within the next two years you commit another offence, you may have to serve your sentence of 9 months imprisonment in addition to any sentence for the other offence.
- [15] You are also fined \$1,000.00. Your counsel has advised the Court that you have means to pay a fine. You must pay this fine within 30 days from today, in default 3 months imprisonment.




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Daniel Goundar
JUDGE

At Suva
Friday 29th February, 2008

Solicitors:

Office of the Director of Public Prosecutions, Nausori for the State
O'Driscoll Lawyers, Suva for the Accused

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Date of Order: 29th February, 2008

ORDER

- [1] The drugs seized herein must be destroyed within fourteen (14) days from the date of this Order.
- [2] The State must file a report confirming the destruction of drugs in compliance with this Order.




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Daniel Goundar
JUDGE

At Suva
Friday 29th February, 2008