

**IN THE HIGH COURT OF FIJI**  
**AT LAUTOKA**  
**APPELLATE JURISDICTION.**

**Criminal Appeal No. HAA 90 / 18 LTK.**

**PITA ULUMATAI**

**V**

**STATE**

Appellant in person  
Ms. S. Navia for the State.

**Date of Hearing** : 22<sup>nd</sup> February 2019  
**Date of Judgment** : 22<sup>nd</sup> February 2019

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**JUDGMENT**

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- 1.] On the 26<sup>h</sup> November 2018 in the Magistrates' Court at Ba, the appellant entered a plea of guilty to one count of Breach of Bail Conditions, contrary to sections 25 and 26 of the Bail Amendment Act 2012. He was accordingly convicted and on the 6<sup>th</sup> day of December 2018, he was sentenced to 4 months and 13 days imprisonment.
- 2.] The Appellant has filed a timely appeal against that sentence on the following home-made grounds:
  1. That the learned Magistrate erred when he failed to give any reasons for the term of imprisonment
  2. That the learned Magistrate failed to give any discount for the mitigation advanced below.
  3. The Magistrate failed to give reasons for making the sentence consecutive.

4. The Magistrate mistook the facts.
  5. He acted on wrong principle
  6. He failed to consider or apply the provisions of the Sentencing and Penalties Act 2009
  7. He failed to exercise his discretion when reviewing the reasons for the sentence.
- 3.] The basis for the charge was that he failed to present himself to the Ba Magistrates Court on the 15<sup>th</sup> February 2017.
- 4.] The maximum penalty for breach of Bail Conditions is 12 months' imprisonment or a \$2,000 fine. The tariff band, as correctly stated by the learned Magistrate is a suspended sentence to 9 months' imprisonment.
- 5.] In dealing in turn with the appellants grounds.

**I. Ground One**

The Magistrate has clearly and correctly stated the maximum penalty and the tariff and has said that his circumstances of offending warranted a term of 6 months' imprisonment. In a straightforward case such as this, he need not say more.

This ground is not made out.

**II. Ground Two**

The appellant has not addressed this ground in his written submissions, however the Magistrate states in his sentencing remarks that he has considered the guilty plea and remorse and that he has considered his personal and family circumstances.

This ground of appeal is not made out.

**III. Ground Three**

The Magistrate has not given reasons for making the sentence consecutive and this he must do. Section 22 of the Sentencing and Penalties Act stipulates that a sentence must be made concurrent to an existing sentence. A court can direct otherwise but reasons must be given.

This ground succeeds.

- 6.] None of the remaining grounds has been addressed by the appellant in his written submissions and there appears to be no merit in any of them.
- 7.] The Appeal is allowed but only in respect of Ground 3.
- 8.] The sentence passed below will be served concurrently with the other sentences he is serving.



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**P.K. Madigan**  
**Judge**

**22<sup>nd</sup> February 2019**  
**At High Court Lautoka**