

IN THE HIGH COURT OF FIJI

AT SUVA

[CRIMINAL JURISDICTION]

CRIMINAL CASE NO. HAC 392 OF 2019

BETWEEN : STATE

AND : VILIAME MOCEVAKACA
JOSAIA DELAI

Counsel : Ms K Semisi for the State
Mr K Chang for both Accused

Date of Hearing : 23 March 2020

Date of Sentence: 4 May 2020

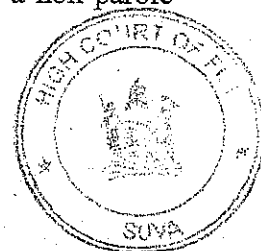
SENTENCE

- [1] Both Accused appeared in the Magistrates' Court on a charge of unlawful cultivation of an illicit drug and pleaded guilty. Their case was referred to the High Court for sentence.
- [2] The facts are that in March 2019 a team of police officers raided a farm in Kadavu. The police officers found the two Accused at a close vicinity of their farm and when confronted the two Accused admitted cultivating marijuana. They led the police officers to their farm from where 1202 plants were uprooted and seized as exhibits. The plants were measured and tested in a government lab. The test result came positive. The plants were marijuana. Their size ranged from 15cm to 163cm in height. The total weight of the plants was 25 kg.
- [3] Under caution both Accused admitted to the offence of cultivating an illicit drug.
- [4] The objective seriousness of the offence is reflected in the penalty prescribed for cultivation of an illicit drug. The penalty is life imprisonment. The tariff for possession,

production or cultivation of more than 4 kg of an illicit drug range from 7 to 14 years' imprisonment (*Sulua v State* [2012] FJCA 33; AAU0093.2008 (31 May 2012)). The same tariff applies to a large scale cultivation of marijuana of more than 100 plants (*Tuidama v State* [2016] FJHC 1027; HAA29.2016 (14 November 2016), *State v Nabenu* [2018] FJHC 539; HAA10.2018 (25 June 2018)).

- [5] The scale of cultivation is an aggravating factor. It was done for commercial purpose.
- [6] Cultivation of marijuana especially on secluded locations is becoming too prevalent in our community. Drug cartels are turning to ordinary unemployed villagers and exploiting their social-economic vulnerability. Those involved in this lucrative business have no regard to the harm the illicit drug cause to the society. If this evil is not controlled, it will spread, causing many social problems and destroy many lives. The courts duty is to denounce such conduct and deter others from drug cultivation.
- [7] The mitigating factors are the offenders' early guilty pleas, previous good character and young age. Josaia Delai is 19 years of age and Viliame Mocevakaca is 20 years old. They were unemployed youths but unemployment is not an excuse for drug cultivation. However, they have been consistent with one thing. They cooperated with the police by showing them their farm, made frank admissions under caution and pleaded guilty to the charge at the first opportunity. They are genuinely remorseful. For these reasons their culpability falls on the lower end of the tariff.
- [8] I incorporate the three weeks the two Accused spent in custody on remand in sentence.
- [9] Both Accused are convicted and sentenced to 7 years' imprisonment with a non-parole period of 4 years.
- [10] Drugs are to be destroyed forthwith.





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Hon. Mr Justice Daniel Goundar

Solicitors: Office of the Director of Public Prosecutions for the State
Legal Aid Commission for both Accused.