

**IN THE HIGH COURT OF FIJI**  
**AT LABASA**  
**CRIMINAL JURISDICTION**

**Criminal Case No: HAC 29 of 2019**

**BETWEEN** :       **THE STATE**

**AND**        :       **ANARE YABAKIDRAU**

**Counsel:**     Ms A Vavadakua for the State  
                  Ms M Tuiloma for the Accused

**Date of Hearing:**     17 November 2020

**Date of Sentence:**   18 November 2020

**SENTENCE**

[1]     The offender has pleaded guilty to a charge of unlawful possession of marijuana, contrary to section 5(a) of the Illicit Drugs Control Act. The facts tendered by the prosecution in support of the offence are as follows:

On the 15<sup>th</sup> day of December 2018, a Saturday, at about half past 10 in the morning, the Accused, Anare Yabakidrau, was arrested at the foreshore of Savusavu Town for being in possession of illicit drugs, namely marijuana.

On the above date, Police Officers approached some youths drinking at the New World building in Savusavu to warn them about drinking in that spot, when they suddenly saw the Accused, run towards the mangroves with a travelling bag.

The officers gave a chase because they suspected the man [the Accused] to have committed or about to commit a crime. The Accused was met by the one Ilisoni, a man from his village who stopped him and asked him to return with to the village. Thereafter, the Police Officers arrived and the Accused was searched.

The Police Officers discovered that the Accused was carrying dried leaves believed to be marijuana [cannabis sativa]. The officers then escorted the Accused to the Savusavu Police Station, after giving him his rights. He was then locked in the police cell.

After he sobered up, the Accused was then taken into the Police room to be questioned by the Interviewing Officers under caution.

Under caution, the Accused admitted that he was indeed carrying dried leaves that were marijuana. He also identified the bag that he had put the marijuana in. According to the Accused, he brought the bag of marijuana to Savusavu town that day because he wanted to sell it.

The dried leaves were analysed by an expert, a Principal Scientific officer from the Fiji Police Forensics office, who confirmed that the dried leaves were indeed cannabis sativa, having a total weight of 752.14 grams.

[2] The maximum penalty for possession of an illicit drug is life imprisonment. This case falls under category 2 of *Sulua* guidelines. The facts indicate that the offender is a drug peddler. The drugs were in possession for commercial use. That is an aggravating factor. I identify deterrence both special and general as the purpose of sentence.

[3] I take into account the personal circumstances of the offender. He is 37 years old and married with five children. He claims to be a root crop and vegetable farmer. He is a first time offender.

[4] The guilty plea is late. The offender pleaded guilty after he was remanded in custody for absconding bail and after a trial date was set. Otherwise, there is a lack of remorse.

[5] I give the following discounts in sentence:

Late guilty plea – 6 months.

Previous good character – 3 months.

Remand period – 3 months.

Total – 12 months

[6] I use 2 years as my starting point and add 6 months to reflect the aggravating factor. I reduce the sentence by 12 months to reflect the mitigating factors and the remand period.

[7] The offender is convicted and sentenced to 18 months imprisonment.



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**Hon. Mr Justice Daniel Goundar**

**Solicitors:**

Office of the Director of Public Prosecutions for State

Office of the Director of Legal Aid Commission for Accused