

IN THE HIGH COURT OF FIJI

AT SUVA

[APPELLATE JURISDICTION]

CRIMINAL APPEAL NO. HAA 008 OF 2025

BETWEEN : **GAUNA SOKOTUKIVEI**

AND : **STATE**

Date of Judgment : **8 May 2025**

JUDGMENT

(Summary Dismissal of Appeal)

- [1] On 6 February 2025, Gauna Sokotukivei (the Appellant) was sentenced to twelve (12) months' imprisonment after being found guilty of charges of Drunk and Disorderly Conduct and Criminal Intimidation by the Acting Chief Magistrate.
- [2] On 27 March 2025, the Appellant submitted a Petition to Appeal his sentence through the Fiji Corrections Service, requesting that it be forwarded to the High Court. The Office of the Chief Registrar received the petition on 8 April 2025. The appeal is late by approximately one month.
- [3] The primary complaint concerns the severity of the custodial sentence. The Appellant submits that his offence warranted a suspended sentence.
- [4] On 30 April 2025, the High Court received a certified copy of the Magistrates' Court records for this case. These records serve an essential purpose when considering the summary dismissal of an appeal under section 251 of the Criminal Procedure Act.

[5] Section 251 of the Criminal Procedure Act states:

251 – (1) When the High Court receives a petition of appeal and the record of proceedings, a judge shall review the petition.

(2) Where an appeal is brought on the grounds that— (a) the decision is unreasonable; or (b) the decision cannot be supported by the evidence; or (c) the sentence is excessive— and it appears to the judge that the evidence sufficiently supports the conviction and that there is no material in the case that could raise reasonable doubt or justify a sentence reduction, the appeal may be summarily dismissed. The judge must certify that they have reviewed the record and are satisfied that the appeal lacks sufficient grounds for complaint.

(3) Whenever an appeal is summarily dismissed, notice of dismissal shall be given by the Chief Registrar of the High Court to the Appellant or their lawyer.

[6] I have reviewed the court records and considered the case. The learned Magistrate provided written reasons for the sentence imposed on the Appellant, taking into account the facts.

[7] The incident occurred on 27 December 2023 in Levuka village, Lakeba, Lau. That day, the Station Officer received a report that the Appellant was intoxicated and behaving unruly. The Station Officer assembled a team of three police officers and proceeded to the village. Upon arrival, they found the Appellant heavily intoxicated and arrested him.

- [8] While being transported to the station, the Appellant became aggressive and verbally abusive toward one of the iTaukei police officers, using offensive language. The Station Officer attempted to calm him, but upon arrival at the station, the Appellant became further combative, challenged the officers to a fight and continued to use racially charged insults. He refused to enter the cell, necessitating his forced confinement.
- [9] After being locked up, the Appellant continued his aggression, directing racial slurs and threats toward the only police officer of Indian descent, including threats to kill.
- [10] Both offences stemmed from the same incident. The maximum sentence for criminal intimidation is five years' imprisonment, with a sentencing range between six months and two years.
- [11] The learned Acting Chief Magistrate regarded the offences as serious. The abusive and threatening remarks were directed at police officers performing their lawful duties, with one officer specifically targeted based on race. The Acting Chief Magistrate classified the conduct as racially motivated criminal behaviour.
- [12] The Appellant had nine prior convictions, including recent offences involving property damage, possession of illicit drugs, and criminal trespass. Despite the absence of mitigating factors, the learned Acting Chief Magistrate granted a seven-month reduction, considering the Appellant's submissions. The possibility of a suspended sentence was examined but ultimately rejected, as there were no exceptional circumstances to justify suspension.
- [13] After reviewing the Magistrates' Court records, I am satisfied that there is no material evidence suggesting the sentence should be reduced. Offences against police officers while they are carrying out their lawful duties—especially those

involving intimidation and racial abuse—merit immediate custodial sentences. The Acting Chief Magistrate was correct in holding that sentences should only be suspended under exceptional circumstances.

[14] The appeal is summarily dismissed pursuant to section 251 of the Criminal Procedure Act.

[15] The Registry is directed to serve a copy of this judgment to the Appellant and the Office of the Director of Public Prosecutions.



Hon. Mr Justice Daniel Goundar

Solicitors:

Appellant in Person

Office of the Director of the Public Prosecutions for the State