IN THE HIGH COURT OF FIJI

AT SUVA

[APPELLATE JURISDICTION]

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CRIMINAL APPEAL NO. HAA 010 OF 2025

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BETWEEN   :   **ROKO MATE**

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APPELLANT

</div>

AND   :   **STATE**

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RESPONDENT

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Counsel   :   **Appellant in Person**

Ms S Bibi for the Respondent

Date of Hearing : **6 May 2025**

Date of Judgment : **9 May 2025**

JUDGMENT

[1]   On 27 January 2025, the Appellant, Roko Mate, was sentenced to 1 year and 9 months' imprisonment after pleading guilty to two counts of Unlawful Possession of Illicit Drugs. As the Appellant had already served 7 months in custody on remand, he was ordered to serve the remaining 1 year and 2 months, with a non-parole period of 6 months.

[2]   On 18 February 2025, the Appellant submitted a Petition to Appeal his sentence. Although the appeal was filed on time, the handwritten grounds of appeal are illegible.

[3]   At the hearing, the court pressed the Appellant to clarify his complaint regarding the sentence. He stated that the learned Magistrate had failed to consider his mitigating factors.

[4]   At the hearing before the Magistrates' Court, the Appellant waived his right to counsel and pleaded guilty to the charges. According to the facts, police officers patrolling the area found the Appellant loitering on a deserted street late at night. Upon searching him, the officers discovered 0.8 grams of Cannabis Sativa and 0.074 grams of methamphetamine concealed in a purse he was carrying.

[5]   In mitigation, the Appellant informed the learned Magistrate that he was 25 years old and earned a living by selling BBQ. He had a partner with whom he shared two children, aged 6 and 2. He asserted that the illicit drugs were for personal use, expressed remorse, and took full responsibility for his conduct.

[6]   At the sentencing hearing, the prosecutor informed the learned Magistrate that the Appellant had no prior convictions. In other words, he had previously demonstrated good character.

[7]   The learned Magistrate applied a 3-month discount for the Appellant's personal circumstances and a 6-month discount for his guilty plea, acknowledging that it was not entered at the earliest opportunity. The sentence was not increased for any aggravating factors.

[8]   The only apparent grievance is that the learned Magistrate did not consider the Appellant's previously good character in reducing the sentence. According to section 4(2) of the Sentencing and Penalties Act, courts must have regard to the offender's previous character when sentencing. It is a well-established

sentencing principle that good character may serve to reduce a sentence that would otherwise have been imposed (*Fifita v State* [2010] FJCA 21; AAU0024.2009 (2 June 2010)).

[9]   Counsel for the State conceded that the learned Magistrate did not take the Appellant's good character into account when determining his sentence. This omission constitutes an error in principle in the exercise of the Magistrate's sentencing discretion. An appropriate reduction should have been applied to reflect the Appellant's previously good character. I find that a further 4-month reduction in sentence is appropriate.

[10]   Thus, the head sentence of 1 year and 9 months' imprisonment is set aside and substituted with 15 months' imprisonment. Given that the Appellant had already served 7 months in custody on remand, the remaining term of his imprisonment sentence is 8 months effective from 27 January 2025. I have decided not to fix a non-parole period.

[11]   Time to appeal is extended. The appeal against sentence is allowed to that extent.

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Hon. Mr Justice Daniel Goundar

Solicitors:

Appellant in Person

Office of the Director of the Public Prosecutions for the State