

Bus stop operated for hire the said vehicle other than from its approved rank.

2. The Appellant challenged the said TIN; hence, the matter proceeded to a hearing. During the hearing, the Prosecution presented evidence from the officer who booked the Appellant, and the Appellant presented evidence on behalf of the Defence. The Learned Magistrate, in his judgment dated 16th October 2024, found the Appellant guilty of the said offence and fined him \$150.00. Aggrieved with the said sentence, the Appellant filed this appeal on the following two grounds.

a) *That the main witness was not called to give evidence when he was waiting to give his witness.*

b) *The Learned Magistrate only made the judgment on the booking officer's lies and the main witness was not called to testify and give his side of story.*

3. Appraising the grounds of appeal, I could aptly summarize that the Appellant's main contention is that it was not open to the Learned Magistrate to reach the conclusion he made in his judgment based on the evidence adduced before him.

4. Régulation 31 (1) of the Land Transport (Public Service Vehicles) Regulations 2000 states :

"Subject to this regulation and regulation 34, a taxi must not be operated from or within any zone other than the zone specified in the permit under which it operates.

5. As per the testimony given by the Prosecution's witness in the Magistrate's Court, the Appellant was found in his taxi, parked within the zone designated for the Viviraz Bus Stop, for the purpose of operating his taxi, which was in contravention of his zone permit.

The Bus Stop zone is not included in the permitted zone prescribed in the Appellant's taxi permit.

6. The Appellant, in his evidence, testified before the Learned Magistrate that he was asked by the Prosecution's witness to stop while he was driving his taxi towards Suva. He then stopped as requested, and it was within the bus stop zone. Therefore, his main argument was that he was not operating his taxi from the bus stop zone but had to stop there due to the instruction given by the Prosecution's witness.
7. The Learned Magistrate asked the Appellant certain questions to clarify whether he had reported the serious allegation he made against the Prosecution's witness, who is an authorized officer of the Land Transport Authority. The Appellant explained that he had attempted to do so but was unsuccessful.
8. Considering the line of questions posed by the Learned Magistrate to the Appellant during his testimony, it is discernable that the Learned Magistrate was enquiring whether the allegation made by the Appellant was possible and probable.
9. According to Section 189 (6) of the Criminal Procedure Act, the Learned Magistrate is not required to provide reasons for his findings in his judgment for an offence of this nature, unless a Judge of the High Court specifically requests them. In his judgment, the Learned Magistrate concluded that he was satisfied that the Prosecution's evidence proved beyond a reasonable doubt, thereby indicating that he declined to accept the evidence of the Appellant, which, in my view, was open to the Learned Magistrate based on the evidence presented before him.
10. Lord Justice Rose LJ in **Nottingham City Council v Woodings** ([1994] RTR 72 explained the meaning of plying for hire, where Rose LJ observed:

'In my judgment, when the defendant parked the marked car in the street, for the purpose of going into the toilet, he was not plying for

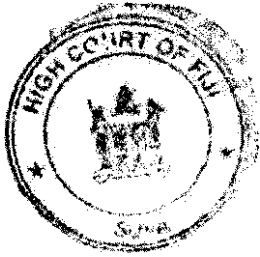
hire, and when he came out of the toilet, he was not plying for hire. But when, having sat in the driver's seat, he told the prospective passengers that he was free to carry them, at that stage he was, bearing in mind where the car was and what the car looked like, plying for hire.”

11. In **Cogley v Sherwood** [\[1959\] 2 QB 311](#), Lord Parker CJ stated at pages 325-326:

“In the ordinary way, therefore, I should, apart from authority, have felt that it was of the essence of plying for hire that the vehicle in question should be on view, that the owner or driver should expressly or impliedly invite the public to use it, and that the member of the public should be able to use that vehicle if he wanted to.”

12. There is a discernible difference between parking a taxi and operating a taxi. Operating a taxi generally involves engaging in the business or activity of transporting passengers for hire. Parking a taxi refers to leaving the vehicle stationary and unattended, or attended in a specific location, whether temporarily or long-term. From a legal perspective, parking is not, in itself, regarded as operating a taxi unless it explicitly or implicitly indicates to the public that it is available for hire.
13. In this case, the Appellant was parking his taxi at a bus stop where passengers had access or were likely present, while keeping its engine running and sitting in the driver’s seat. (vide pages 07 and 08 of the record of the Magistrate’s court proceedings) This was sufficiently adequate to imply or indicate to the public that the Appellant’s taxi was available for hire. Hence, I have no reason to find that the Learned Magistrate’s conclusion was not open to him based on the evidence presented in the Magistrate’s Court.
14. Considering the reasons outlined, I find no merit in any of the grounds of appeal. Accordingly, I dismiss this appeal.

15. Thirty (30) days to appeal to the Fiji Court of Appeal.



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Hon. Mr. Justice R. D. R. T. Rajasinghe

At Suva

17th July 2025

Solicitors.

Appellant In Person

Land Transport Authority for the Respondent.