

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

**Crim. Case No: HAC 154 of 2025**

**STATE**

vs.

**JOSAIA VOREQE BAINIMARAMA**

**Counsel:** Ms. L. Tabuakuro with Ms. P. Mishra for State  
Mr. D. Sharma with Ms. G. Fatima for Accused Persons

**Dates of Hearing:** 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 12<sup>th</sup>, 13<sup>th</sup>, 19<sup>th</sup> 25<sup>th</sup>, 26<sup>th</sup> 27<sup>th</sup> and 28<sup>th</sup> August 2025

**Date of Closing Submission:** 1<sup>st</sup> and 4<sup>th</sup> September 2025

**Date of Judgment:** 02<sup>nd</sup> October 2025

**Date of Sentence:** 22<sup>nd</sup> October 2025

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**SENTENCE**

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1. The Court, on 2<sup>nd</sup> October 2025, found Mr. Josaia Voreqe Bainimarama guilty of one count of Unwarranted Demand Made by a Public Official, contrary to Section 355 (a), (b) (i), and (c) (ii) of the Crimes Act, which carries a maximum penalty of twelve years' imprisonment. The particulars of the offence are as follows,

***COUNT ONE***

*Statement of Offence*

**UNWARRANTED DEMANDS MADE BY A PUBLIC OFFICIAL:**

*Contrary to Section 355 (a) (b) (i) and (c) (ii) of the Crimes Act 2009.*

*Particulars of Offence*

**JOSAIA VOREQE BAINIMARAMA** between the 21<sup>st</sup> day of May 2021 to the 18<sup>th</sup> day of August, 2021, at Suva in the Central Division, being employed as a public official, made an unwarranted demand with menaces of **RUSIATE TUDRAVU** when he told him to terminate the employment of Sgt. 2878 Penieli Nayare Ratei and PC 6042 Tomasi Matanisiga Naulu with the Fiji Police Force and that if he did not terminate the officers that he was to hand in his resignation, this demand was directly related to **JOSAIA VOREQE BAINIMARAMA'S** official capacity as the Prime Minister of the Republic of Fiji and was done with the intention of influencing **RUSIATE TUDRAVU** a public official in the exercise of his official duties as the Acting Commissioner of Police of the Republic of Fiji.

2. It was proven during the trial that you made an unwarranted demand with menace, demanding Mr. Tudravu, then Acting Police Commissioner, to dismiss the Police Officers involved in the incident with the late Mr. Jonacani Bainimarama (who will be referred to as Mr. JB) on 21 May 2021. You further demanded that if Mr. Tudravu failed to dismiss them, he must resign from the Fiji Police Force. The above demand related to the incident where a group of Police Officers searched Mr. JB on 21 May 2021 while he was driving his taxi, then uploaded his photograph along with his driver's licence to two Police Viber groups. This conduct by the Police breached Mr. JB's right to be free from unreasonable search and his right to privacy, as stipulated under the Constitution.
3. The Supreme Court of Fiji in *Qurai v State [2015] FJSC 15; CAV24.2014 (20 August 2015)* outlined the sentencing methodologies that could be adopted under the Sentencing and Penalties Act, where Marsoof J observed:

*“[48] The Sentencing and Penalties Decree does not provide any specific guideline as to what methodology should be adopted by the sentencing court in computing the sentence, and subject to the current sentencing practice and*

*terms of any applicable guideline judgment, leaves the sentencing judge with a degree of flexibility as to the sentencing methodology, which might often depend on the complexity or otherwise of every case.*

*[49] In Fiji, the courts by and large adopt a two-tiered process of reasoning where the sentencing judge or magistrate first considers the objective circumstances of the offence (factors going to the gravity of the crime itself) in order to gauge an appreciation of the seriousness of the offence (tier one), and then considers all the subjective circumstances of the offender (often a bundle of aggravating and mitigating factors relating to the offender rather than the offence) (tier two), before deriving the sentence to be imposed. This is the methodology adopted by the High Court in this case.”*

4. As can be observed, I have to first determine the objective seriousness of this offence. You were the Prime Minister of Fiji; by virtue of that, you were the head of the government and the Chairperson of the Cabinet of Ministers at the time this offence was committed. As the elected head of Fiji's government, the Prime Minister is entrusted with significant trust and faith by the people of Fiji, expecting him or her to perform the duties as Prime Minister in accordance with the Constitution of Fiji.
5. The Supreme Court of Fiji, in *In the Matter of a reference by Cabinet for an opinion from the Supreme Court on a matter concerning the interpretation and application of sections 159 and 160 of the Constitution of the Republic of Fiji [2025] FJSC 20; Miscellaneous 1 of 2025 (29 August 2025)*, observed that democracy is the fundamental value of the 2013 Constitution, grounded on the principles of equality, rule of law, an independent Court system, civic involvement, and good governance<sup>1</sup>.
6. Lord Diplock, in *Thomas v A-G of Trinidad and Tobago (1981 3 WLR 601, p. 607-608)*, emphasized the importance of the rule of law and the institutional independence of

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<sup>1</sup> see para 93 of the Judgment

Constitutions that follow the Westminster model, such as in Fiji. Lord Diplock warned that failing to uphold the rule of law and institutional independence provides an opportunity for the political party in power to manipulate the public and civil service to achieve its political aims.

7. Chapter 6 of the Constitution, under the heading of State Service, separately establishes the public service of Fiji, the Disciplinary Forces, including the Police Force, and the Constitutional Offices Commissions so as to insulate the members of the State Service and their functions from the influence of the government of the day. Stressing the limits of the rule of law, Lord Denning famously quoted the passage of Thomas Fuller, who wrote it 300 years ago, saying, "*Be ye ever so high, the law is higher than ye*". Hence, no matter how high the public office you hold, the rule of law remains supreme over you.
8. Consequently, the office of the Prime Minister is subject to the rule of law, and he or she must adhere to and respect the institutional independence as stipulated under the Constitution in performing the powers and duties of the office. You have breached the institutional independence given to the Commissioner of Police under Section 135 (4) of the Constitution by committing this offence as convicted. Hence, the objective seriousness of this offence is high.
9. Taking into account the objective seriousness of this offence, this sentence is primarily based on the principle of deterrence as outlined in Section 4 (1) (c) of the Sentencing and Penalties Act, in order to deter both elected and appointed public officials from committing offences of a similar kind and to protect the community from such offenders. This sentence also aims to convey that the Court and the community condemn the commission of such offences.
10. There is no sentencing tariff range for this offence in Fiji. The offence of Blackmail under Section 21 of the Theft Act 1968 of England closely resembles the main elements of the offence of Unwarranted Demand Made by a Public Official under the Crimes Act. Section 21 of the Theft Act 1968 of England states:

*“A person is guilty of blackmail if, with a view to gain for himself or another or with intent to cause loss to another, he makes any unwarranted demand with menaces; and for this purpose, a demand with menaces is unwarranted unless the person making it does so in the belief—*

- a) that he has reasonable grounds for making the demand; and*
- b) that the use of the menaces is a proper means of reinforcing the demand.”*

11. There are differences between the offence of Blackmail and Unwarranted Demand Made by a Public Official under the Crimes Act. Blackmail is not limited to transactions involving public officials, and such an offence can be committed with the aim of causing loss to another or gaining for oneself. However, a public official may commit the offence of Unwarranted Demand with menace not only with the intention of gaining or causing a loss, but also to influence another public official in performing their duties. Another notable difference is the maximum sentence; Blackmail carries a maximum penalty of 14 years, whereas Unwarranted Demand by a Public Official carries a maximum penalty of 12 years.
12. Despite these differences, the sentencing guidelines of the UK Sentencing Council on Blackmail could be adapted *mutatis mutandis* as a useful tool for assessing culpability and harm, as well as determining the starting point and sentencing ranges.
13. The UK sentencing guideline provides the following factors that could be considered in determining the level of culpability, where it states:

***A – High culpability***

- a) Conduct repeated or prolonged over a substantial period of time*
- b) Sophisticated planning*
- c) Deliberate targeting of particularly vulnerable victim and/or their family*

d) *Use of violence*

***B – Medium culpability***

a) *Violence threatened*

b) *Other cases that fall between categories A and C because:*

c) *Factors are present in A and C which balance each other out and/or*

d) *The offender's culpability falls between the factors described in A and C*

***C – Lower culpability***

a) *Limited in scope and duration*

b) *Involved through coercion, intimidation or exploitation*

c) *Offender's responsibility substantially reduced by mental disorder  
or learning disability*

14. The menacing demand in this matter was limited in scope and duration. You initially demanded that Mr. Tudravu dismiss the Police Officers on 22 May 2021, when you first raised concerns about the incident involving the late Mr. JB and the Police Officers. However, you later agreed with the disciplinary process initiated under the Police Act. After the disciplinary tribunal's findings on 4 August 2021, you then messaged Mr. Tudravu *via* Viber, demanding that he terminate the Police Officers, and if he failed to do so, for Mr. Tudravu to resign.
15. Although you immediately deleted those Viber messages sent to Mr. Tudravu on 4 August 2021, I find no evidence of sophisticated planning or the use of violence in committing this offence. Your actions did not specifically target any particular vulnerability of Mr. Tudravu, but you exploited your position as Prime Minister to intimidate him by making this unwarranted demand with menace. For these reasons, the level of culpability for this offence falls within the lower category.

16. The following factors are listed under the level of harm according to the UK sentencing guidelines.

***Category 1***

- a) *Very serious distress and/or psychological harm caused to the victim and/or others*
- b) *Property demanded or obtained represents or would represent very substantial loss to the victim and/or others (whether financial, commercial or of personal value)*
- c) *Widespread public impact of the offence*

***Category 2***

- a) *Substantial distress and/or psychological harm caused to the victim and/or others*
- b) *Property demanded or obtained represents or would represent substantial loss to the victim and or/others (whether financial, commercial or of personal value)*

***Category 3***

- a) *Limited effects of the offence*
- b) *Property demanded or obtained represents or would represent a limited loss to the victim and/or others (whether financial, commercial or of personal value)*

17. The Victim Impact Report outlined the psychological impact on Mr. Tudravu and other hardships he experienced following this offence. Mr. Tudravu lost four months of employment under his re-engagement contract due to his resignation. Offences of this kind always impact a wider group of victims; that is, the public who trusted you as the Prime

Minister of the country. Considering these factors, I determine that the harm caused by this offence falls within category 2 of the harm scale.

18. UK sentencing guidelines recommend a starting point of one year if the offence falls under the lower level of culpability, combined with a medium level of harm. The sentencing range spans from 26 weeks to two years of imprisonment.
19. Considering the objective seriousness of the offence, the lower level of culpability, and the medium level of harm, it is appropriate to commence this sentence at 12 months.
20. The Learned Counsel for the Accused submitted in his mitigation submissions your career achievements as a military officer, where you ended your career as the Commander of the Fiji Military Force, as well as your accomplishments as the Prime Minister of Fiji between 2006 and 2022. Although you have achieved high standards in your military and political careers, you have been adversely recorded with one conviction for an offence involving abuse of your authority within the last ten years. Therefore, you are not entitled to any reduction for your previous character pursuant to Sections 4 (2) (i) and 5 of the Sentencing and Penalties Act. Consequently, your final sentence is 12 months' imprisonment.
21. Section 26 (1) of the Sentencing and Penalties Act states that:

*“On sentencing an offender to a term of imprisonment, a court may make an order suspending, for a period specified by the court, the whole or part of the sentence, if it is satisfied that it is appropriate to do so in the circumstances”*

22. Therefore, it is at the discretion of the sentencing Court to impose a suspended sentence. When the Court considers suspending a sentence, it must be satisfied, after considering all circumstances, that it is appropriate to do so. A suspended sentence is also a custodial sentence imposed by the Court; however, the execution of the imprisonment is deferred on the condition that the offender does not commit another offence or breach any conditions during a specified operational period.

23. The Court considers the circumstances of the offender or the offending when deciding whether to suspend the sentence, such as the offender's age, their likely response to the sentence, whether the suspended sentence acts as a strong deterrent, and the gravity of the offence, including diminished culpability due to lack of premeditation or provocation. (*see R v Petersen (1994) (2) NZLR 533, at 539, Hakik v State [2016] FJHC 682; HAA15.2016 (1 August 2016)*). Ultimately, the sentence must be just and proportionate in all the circumstances of both the offending and the offender.
24. Appraising the above-outlined sentencing principles, I will now consider the subjective circumstances of this offence.
25. As Prime Minister, you had a duty of political accountability, answering to the electorate and state institutions in the exercise of your powers and the fulfilment of your responsibilities. This is one of the fundamental elements of the rule of law, ensuring that public power is exercised lawfully, responsibly, and in the best interest of the public. Therefore, your political accountability was not only limited to protecting citizens from abuse by the Police but also to do so lawfully, respecting the rule of law and institutional independence. In this case, you breached the latter to safeguard the former. Hence, the circumstance of this offence arose from the need to protect the right of the late Mr. JB and to punish the perpetrators.
26. The contemporary jurisprudence of Fiji adequately possesses the sentencing precedents for punishing both elected and appointed high-ranking public officials (*see The Fiji Independent Commission Against Corruption v Qarase - Sentence [2012] FJHC 1252; HAC027.2009 (3 August 2012). State v Chaudhry [2014] FJHC 301; HAC137.2010 (2 May 2014), Fiji Independent Commission Against Corruption (FICAC) v Nawaikula - Sentence [2022] FJHC 236; HACD005.2022S (20 May 2022), Fiji Independent Commission Against Corruption (FICAC) v Matanitobua [2022] FJHC 514; HACD004.2022S (15 August 2022), State v Kunatuba Crim. Case No. HAC 18 of 2006, Fiji Independent Commission Against Corruption v Mau [2011] FJHC 222; HAC089.2010 (14 April 2011), Fiji Independent Commission Against Corruption*

*(FICAC) v Laqere - Sentence [2017] FJHC 337; HAC56.2014 (10 May 2017)*. I do not wish to elaborate on the factual backgrounds of each case, but the common feature among the sentences where immediate custodial sentences were imposed is that each conduct not only involved abuse of authority but also included elements of fraud, aiming to secure a monetary or material advantage or causing such financial or material loss to the State.

27. Although your conduct amounted to abuse of authority in this case, it did not involve any fraudulent element aimed at obtaining a monetary or material advantage or causing financial or material loss to the State. Therefore, the circumstances of your offending are distinguishable from those of previous sentencing precedents.
28. Shameem J in **State v Bola [2005] FJHC 236; HAC0029S.2005S (22 August 2005)** imposed a community work order on the Accused, who, as the Manager of Compliance and Investigation at the Immigration Department, personally attended the airport to ensure that a person was not refused entry to Fiji. One of the reasons for not imposing a custodial sentence was that the Accused did not personally benefit from the alleged abuse of his authority.
29. The conviction for this offence significantly affects you, as you are disqualified from standing for a parliamentary election for the next eight years under Section 56 (2) (g) of the Constitution. This reduces the likelihood of reoffending or committing the same or similar offence during that period.
30. It was submitted in the Mitigation that your worsening health condition requires ongoing medical monitoring and care. You are now seventy-one years old.
31. The existence of a previous conviction does not automatically prevent the Court from imposing a suspended sentence under Section 26 of the Sentencing and Penalties Act. The objective seriousness of the offence, the level of culpability, and the harm caused justify a custodial sentence. However, the subjective circumstances of this offence and the reasons

outlined above indicate that it is appropriate to suspend the execution of the custodial sentence under Section 26 of the Sentencing and Penalties Act.

32. In conclusion, I sentence you to 12 months' imprisonment for the offence of Unwarranted Demand Made by a Public Official, contrary to Section 355 (a), (b) (i) and (c) (ii) of the Crimes Act, and suspend this sentence for three years pursuant to Section 26 (1) of the Sentencing and Penalties Act.
33. If you commit an offence and are found guilty during this period of three years, you are liable to be charged and prosecuted for an offence under Section 28 of the Sentencing and Penalties Act.
34. Thirty (30) days to appeal to the Court of Appeal.



A handwritten signature in black ink, consisting of a large, stylized initial 'R' followed by a series of loops and a horizontal line at the end.

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

**At Suva**

22<sup>nd</sup> October 2025

**Solicitors**

Office of the Director of Public Prosecutions for the State.

R Patel Lawyers for Accused person.