

IN THE MAGISTRATE'S COURT AT GAU
CRIMINAL JURISDICTION

Criminal Case No. 3 of 2018

STATE

v

LASARUSA RATABUA

Appearance : **SGT Shaw** for the prosecution
Mr Komaisavai. S for the accused

Sentence : **24 September 2018**

SENTENCE

1. Lasarusa Ratabua today is for sentencing for the offence of *Unlawful Cultivation of Illicit Drugs*, whereby you contravened *section 5(a)* of the *Illicit Drugs Control Act*.
2. On 14 September 2018, you pleaded guilty to the charge in the presence of your counsel. I find your plea to be unequivocal as it was given on your own free will after the charge was fully explained to you in itaukei, a language of your choice.
3. The brief summary of facts are ; -

"On 1 February 2018, a team of police officers raided the farm of Lasarusa Ratabua at Vione village, Gau where they found and uprooted 9 plants of marijuana. The 9 plants was then taken to the Forensic in Nasova for testing. The result has confirmed that the plants were cannabis sativa with weight of 726 grams."

4. You admitted to the above summary of facts on 14 September 2018, and convicted as charged.
5. The maximum penalty for this offence is a fine of \$1,000,000.00, life imprisonment, or both fine and imprisonment. The tariff for this offence was set by the Fiji Court of Appeal in *Sulua v State* [2012] FJCA 33; AAU 0093.2008 (31 May 2012) where it categorises the offence into four categories. In this case, the total weight is 726 grams and that falls under category 2. Category 2 is in possession of 100 – 1,000 grams of cannabis sativa. The tariff is between 1 – 3 years imprisonment. Possession below 500 grams, sentence to less than 2 years. Possession more than 500 grams, sentence to more than 2 years imprisonment.
6. In this case the weight is 726 grams and is more than 500 grams.
7. The aggravating factor in this case, is that it is the people like you who allows for the continued presence of marijuana in our country.
8. The compelling mitigating factors are;-
 - a. First offender,
 - b. Sole bread winner,
 - c. Willing to rehabilitate and asked for a second chance.
9. For your sentence, I pick 2 years as my starting point. I add 18 months for the aggravating factor and that increase your sentence to 3 years and 6 months imprisonment. I reduce 6 months for your mitigation and that reduce your sentence to 3 years imprisonment.
10. You entered an early guilty plea and you are entitled for a one third reduction of 1 year. That reduce your sentence to 2 years imprisonment.
11. In perusing the court record, it shows that you have been in remand for about 2 weeks. I reduce that from your sentence and it reduce your sentence to 1 year, 11 months, and 2 weeks imprisonment.

12. In this sentence, I have considered *section 4* of the *Sentence and Penalties Act*, the principles of rehabilitation and deterrent. Considering the national efforts in trying to combat the rise of illicit in drugs in our country, deterrent sentence both specific and general need to be issued to denounce such criminal activity.
13. Lasarusa Ratabua, I now sentence you to 1 year, 11 months and 2 weeks imprisonment with immediate effects. This sentence is below the tariff due to the period you spent in remand.

28 days to appeal

A handwritten signature in black ink, appearing to read 'C. M. Tuberi', enclosed within a hand-drawn oval.

C. M. Tuberi
RESIDENT MAGISTRATE