

IN THE MAGISTRATES' COURT OF FIJI  
AT BA  
[CRIMINAL JURISDICTION]

Criminal Case No: 24/26

STATE

v.

MIKAELE NAWAIKADA

For Prosecution: PC [5647] P. Nair  
For Accused: Appearing In Person  
Plea: 27/1/2026  
Conviction: 27/1/2026  
Sentence: 27/1/2026

SENTENCE

A. Introduction

1. **MIKAELE NAWAIKADA** [hereinafter referred to as the 'Accused'] you are charged **Unlawful Possession of Illicit Drugs**: contrary to Section 5 (a) of the Illicit Drugs Control Act, 2004 and a second count of **Breach of Order Suspending Sentence**: contrary to Section 28 (1) of the Sentencing and Penalties Act 2009.
2. You had in your possession on 9/1/2026 at the Ba Market in Ba, **2.9 grams worth of illicit drugs namely cannabis sativa or Indian hemp.**
3. On your first appearance before this Court, you preferred the iTaukei language. You waived your right to Counsel; you also received a full set of disclosures from the Police Prosecutor and you were subsequently remanded into custody.
4. Upon appearing today, you informed Court that you were ready to take your plea. The charge was read, explained and understood by you and pleaded guilty to the charge on your own free will. You understood the consequences of your guilty plea to the charge.
5. You admitted to the Summary of Facts that was read to you in court.
6. The Prosecutor tendered a copy Forensic Report of the analysis of drug and photographs of the drugs as part of the Prosecution evidence – they also informed Court of your PC's of which you have 1 active from 24/12/2025 for Assault Causing Actual Bodily Harm (CF 499/25).

7. I am satisfied with your guilty plea to the charge and your admission to the Summary of Facts in support of the charge. I find you guilty as charged and this Court enters a conviction against you.

## B. Sentencing Regime

8. **Section 5 (a) of the Illicit Drugs Control Act 2004** - the maximum sentence for **Unlawful Possession of Illicit Drugs** is life imprisonment and/or a fine of \$1,000,000.
9. The new tariff for *Unlawful Possession of Illicit Drugs* is found in ***Kaitani v State, Supreme Court, Criminal Petition number: CAV 011 of 2023:***

**Category 1:** possession of 0 to 1000 grams of cannabis sativa - a non-custodial sentence. The cases can be disposed by fines, community service, counselling, discharge with a strong warning, etc. Only in the worst cases, should a suspended prison sentence or a short sharp prison sentence be considered (my underlining).

10. In the present case, the weight of the illicit drug namely; Cannabis Sativa falls under Category 1 of the ***Kaitani*** case.
11. The aggravating factor is *subsumed in the elements of the offence.*
12. The appropriate sentence for **Breach of Order Suspending Sentence** is as per **Section 28** of the **Sentencing and Penalties Act 2009.**
13. The aggravating factor is *subsumed in the elements of the offence.*
14. The mitigating factor(s):
- i. *I find nothing meaningful in your mitigation – much of what you offered is your personal circumstances of which carry nil to minimal weight.*
  - ii. *I find your remorse disingenuous and is a means to escape a custodial sentence.*
15. The accused is not a first offender, he has an active PC.
16. For your early guilty plea and you have saved the court and prosecution from running a full trial so full discount (1/3) to the sentence.

## C. SENTENCE

17. In sentencing you, the Court took into account the factors outlined in Section 4 (1) and (2) of the Sentencing and Penalties Act 2009 as well as the sentencing options outlined under Section 15 of the Sentencing and Penalties Act 2009.

18. **As to Count 1** - Taking into consideration the seriousness of ***Unlawful Possession of Illicit Drugs*** because of its maximum sentence and the prevalence of the offence, also considering that this is your second time in Court for an offence of which I find the propensity at which you returned to Court for to be alarming, together with considering your early guilty plea and the need for deterrence, the Court utilizes the instinctive synthesis method of sentencing and sentences the accused to 1 months imprisonment of which the accused is to serve immediately.
19. **Your time in remand is 16 days** – pursuant to **Section 24** of the **Sentencing and Penalties Act 2009** your imprisonment term is shortened by 2 weeks **thus for Count 1 you are to serve 2 weeks imprisonment immediately.**
20. **As to Count 2** – pursuant to **Section 28 (1) (4)** of the **Sentencing and Penalties Act 2009**, the Court orders that your suspended term of 3 months imprisonment is to be served immediately.
21. Further, the Court directs that your sentence at Count 1 is made consecutive to your sentence at Count 2 pursuant to **Section 22 (1) & (5)** of the **Sentencing and Penalties Act 2009**.
22. **In essence, you are to serve a term of 3 months and 2 weeks imprisonment immediately.**

**Further Orders:**

23. In addition, the Court makes the following Orders:

- The illicit drug (2.9 grams) [Ba Job number: 226062] must be destroyed within 14 days.
- The SCO or CO Ba Magistrate Court registry to be present during the destruction of the said illicit drugs.
- The Prosecution is to file a destruction report/certificate including photographs of the destruction of the illicit drugs in this case.
- The said report to be filed at the Ba Magistrate Court Criminal Registry within 3 days, after destruction.
- The destruction report to be part of the court record

24. The assistant court officer will explain you the meaning of a custodial sentence (*explained*).

**28 days to appeal to the High Court.**

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**S. Nasedra [Ms.]**  
**[Resident Magistrate]**

*Divisional Prosecuting Officer/Western  
Accused – In Person*