

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**CRIMINAL JURISDICTION**  
**CRIMINAL CASE NO. HAC 157 OF 2013S**

**STATE**

**vs**

**TOMASI BAGAGA**

**Counsels** : **Ms. A. Vavadakua and Ms. V. Prasad for State**  
**Mr. J. Savou for Accused**

**Hearings** : **24 and 25 February, 2015**

**Summing Up** : **26 February, 2015**

**Judgment** : **26 February, 2015**

**Sentence** : **27 February, 2015**

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**SENTENCE**

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1. In a judgment delivered yesterday, you were found guilty of “unlawfully cultivating 5.5 kg of cannabis sativa plants (23 plants) in Naitasiri in the Central Division”, contrary to section 5(a) of the Illicit Drugs Control Act 2004.
2. The brief facts were as follows. On 16 December 2012, a group of police officers came to your house in Lomaivuna after a “tip off”. They showed you a search warrant. You led them to your farm, and assisted them uproot the 23 plants of marijuana. You admitted to them that you were unlawfully cultivating the same. On 20 December 2012, the plants were analyzed and found to be cannabis sativa, an illicit drug. You were later charged for the present offence.
3. The maximum sentence for the offence of “unlawfully cultivating an illicit drug” is life imprisonment, \$1,000,000 fine or both. Parliament takes a dim view of this type of offence. In

Kini Sulua, Michael Ashley Chandra v The State, 2012, Fiji Law Report, Volume 2, page 111 to 147, the tariff for those found cultivating more than 4 kg of illicit drug (ie. cannabis sativa) was set at a sentence between 7 to 14 years imprisonment [see paragraph 115, 116, 117, 118 and 119 of Kini Sulua etc. (supra)]. The final sentence will depend on the aggravating and mitigating factors.

4. I don't find any aggravating factors in this case. However, the mitigating factor I found was that he co-operated with the police during its investigation, that is, he helped the police uproot his 23 marijuana plants, and later co-operated in his caution interview.
5. From the set tariff of 7 to 14 years imprisonment, I start with 9 years imprisonment. I deduct 1 year from the 9 years for the mitigating factor, leaving a balance of 8 years imprisonment.
6. Tomasi Bagaga, for unlawfully cultivating 23 marijuana plants (ie. cannabis sativa) on 16 December 2012, at Lomaivuna Naitasiri, in the Central Division, I sentence you to 8 years imprisonment, with a non-parole period of 6 years, to take effect when you are arrested by police.



**Salesi Temo**  
**JUDGE**

Solicitor for the State : Office of the Director of Public Prosecution, Suva.  
Solicitor for the Accused : Legal Aid Commission, Suva.