

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. HAC 69 of 2017

STATE

V

ILISAVANI KOROITAMANA

Counsels: Mrs. D. Kumar for the State
Ms. L. Boseiwaqa (L.A.C.) with Mr. U. Koroi
for the Accused

Date of Plea : 24 August 2018

Date of Sentence: 27 August 2018

SENTENCE

1. This matter first came before the Court on the 20th November 2017, transferred from the Magistrates Court in Savusavu.
2. The Court reads:

Statement of Offence

UNLAWFUL CULTIVATION: Contrary to section 5(a) of the Illicit Drugs Control Act 2004.

Particulars of Offence

ILISAVANI KOROITAMANA: between 01 August 2017 and 09 October 2017, at Naqilo, Tacilevu, Cakaudrove in the Northern Division, without lawful authority, cultivated 462 plants of cannabis sativa, an illicit drug, weighing a total of 7.6 kilograms (7636.5grams).

3. On the 13th January 2018, he entered a plea of not guilty.
4. The trial was fixed to commence on the 24th August 2018.
5. On that day, being advised by his Counsel, he changed his plea to one of guilty.
6. The Court ascertained that he knew the consequences of his plea and that it was given voluntarily.
7. The Court then proceeded to hear the facts of the case and hear mitigation.
8. The facts agreed are these:

“On 9 October 2017 police officers, acting on information, conducted a search at a farm in Naqilo, Tacilevu. They found and uprooted 264 plants. At an adjacent site they found and uprooted 198 plants. They suspected all 462 plants to be marijuana.

The plants were exhibited and kept at the Labasa Police Station. They were analyzed by a Government chemist who produced two separate reports for each of the seizures

respectively. The total weight of the two seizures was 7.6 kilograms.”

9. In an interview under caution with the Police at Savusavu Police Station, the accused admitted having planted all 462 plants and had said that his intention was to sell the product of the plants.

The Law

10. Categories of offending relating to illicit drugs, (including cultivation) were set out by the Court of Appeal in the majority judgment of Temo JA in **Sulua and Chandra** [2012] FJCA 33 (31 May 2012). The amount seized in this case amounts to 7636.5grammes which puts the offending into the fourth category as set out by the Court of Appeal. It was said that offending in that category should attract sentences of between 7 to 14 years.
11. Counsel for the accused relies on the lenient sentence passed by this Court in **Dreduadua** HAC 456 of 2016Lbs (25 May 2016). Unfortunately, this Court fell into error in that case by putting the amount of drugs seized into the wrong category.

Mitigation

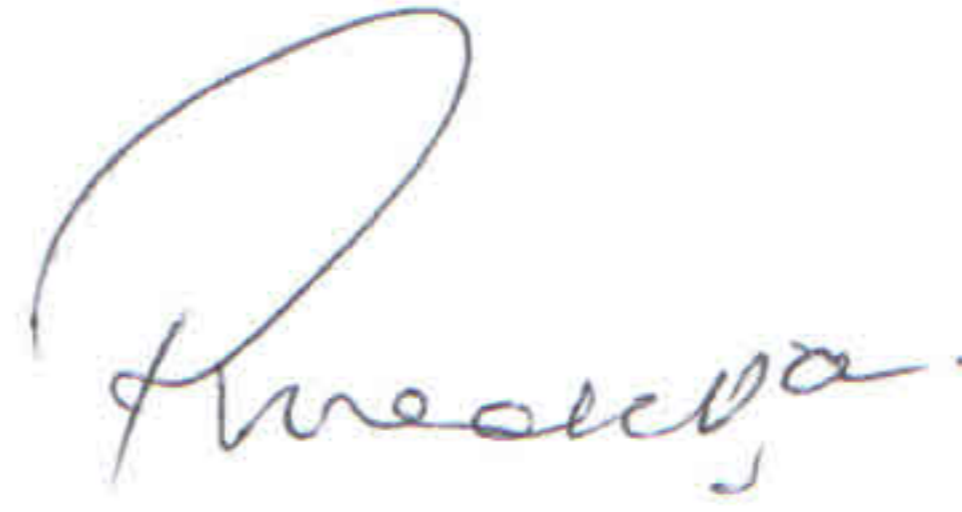
12. The accused is 37 years old and single. Until his arrest he worked as a farmer of yaqona and root crops. He has no previous convictions.
13. He has been in remand awaiting trial for the past 10 months.

14. Counsel submits that he is remorseful and on release is prepared to work with the "Awareness" programme in the village.
15. Although he did not plead guilty until the day of his trial, he did indicate to the Magistrate when first appearing that he was guilty and asked for forgiveness. The record displays only his request for forgiveness which may in itself indicate his inculpatory stance at the time.
16. He voluntarily surrendered himself to the Police when he heard that his farm had been raided and exhibits seized.
17. He has however maintained his plea of not guilty throughout his appearances in this Court.

Sentence

18. I take a starting point of 11 years for this rather large seizure. There are no aggravating features.
19. For his clear record, I deduct a period of 1 year.
20. For the plea, not given at the earliest time, but a plea that has saved the time and resources of the Court I deduct a term of 2 years. This too reflects his co-operation with the authorities in the very early stages of the charge.
21. For the time spent in custody I deduct 12 months meaning that he will serve a total term of seven years imprisonment.
22. He will serve 5 years before he is eligible for parole.

23. Summary: 7 years imprisonment with a minimum term of 5 years.



P. K. Madigan

Judge

At Labasa

27 August 2018

