

IN THE MAGISTRATES' COURT OF FIJI  
AT SUVA  
EXTENDED CRIMINAL JURISDICTION

*High Court Criminal Case No. 196 of 2016*  
*Magistrates' Court Criminal Case No. 822 of 2016*

STATE

v.

ISOA KARAWA

**For the State:** Ms. B. Kantharia, *of counsel*, for the Director of Public Prosecutions

**For the Defendant:** Not Present – In Person

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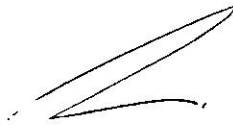
TRIAL IN ABSENTIA RULING

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1. You were first produced in the Magistrates' Court on 23 May 2016. The State served its disclosures on you. You applied for and were granted bail pending trial on 14 July 2016. These criminal trial proceedings were thereafter adjourned for plea to 31 August 2016.
2. You failed to appear on 31 August 2016 and a bench warrant was issued against you. You have been absent since. I have no hesitation in finding that you have had constructive due process notice of trial: *see The Prosecutor v. Ayyash et al., Appeals Chamber, Decision on Defence Appeals against Trial Chamber's Decision on Reconsideration of the Trial in Absentia Decision, Case No.: STL-11-01/PT/AC/AR126.1* [2012] STLB 11; 1 November 2012 (In Absentia Reconsideration AC) [2012] STLB 11 (1 November 2012); *Stoyanov v. Bulgaria – 39206/07* [2012] ECHR 184 (31 January 2012).
3. More, the State have filed a Report prepared by Inspector of Police Melania Saukuru: *see Kumar v. State* [2016] FJHC 397; HAA 03 of 2016 (2 May 2016). From that Report it is clear that you are not incarcerated or remanded anywhere in Fiji. I am

satisfied that you are at liberty and have made the choice not to attend these criminal trial proceedings. I have no hesitation in finding that you have constructively waived your constitutional right to be present at your trial.

4. I order that your trial proceed in your absence. There being no admissions against interest made by you to the Police, your trial will proceed in your absence on 12 March 2020.



**Seini K Puamau**

**RESIDENT MAGISTRATE**



Dated at Suva this 19<sup>th</sup> day of December 2019.