

IN THE HIGH COURT OF FIJI

AT LABASA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 062 OF 2014LAB

STATE

VS

DONASIANO GADEINIUSILADI

Counsels : Ms. P. Low for State  
Mr. R. Tagivakatini for Accused

Hearing : 9 December, 2014

Sentence : 11 December, 2014

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SENTENCE

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1. On 9 December, 2014, in the presence of your counsel, you appeared on the following information:

*Statement of Offence*

**MANSLAUGHTER:** Contrary to section 239 (a) (b) (c) (ii) of the Crimes  
Decree 44 of 2009.



### *Particulars of Offence*

**DONASIANO GADEINIUSILADI** on the 10<sup>th</sup> of August 2014, at Matei, Taveuni in the Northern Division, engaged in conduct which caused the death of **SAILASA WATETE NALESU** and at the time of such conduct was reckless as to causing serious harm to **SAILASA WATETE NALESU**.

2. The information was read and explained to you. You said, you understood the information and you pleaded guilty to the same. You said, you were doing so voluntarily and out of your own free will, and that no-one forced you to do the same.
3. The prosecution then read the summary of facts in court. Briefly, they were as follows. On 10 August 2014, the accused was 44 years old. He was married with five children. He and his family resided at Vuniweleti Settlement, Naselesele. He and two of his children work to put food on the table for the family. On 9 August 2014, at about 7am, he went to the family farm with two of his children. He returned at 3pm, and went to see a friend. At 4.30pm, he met his friend and the two consumed some beer, and later went to Tramanto Bar and had a meal. They were together until 7pm, when he returned home. At home, he sat down with his children and consumed three cartons of Fiji Bitter.
4. While drinking, they were joined by the accused's younger brother. The younger brother brought up his problems with one Keresi Maya, and he was trying to involve the accused in resolving their dispute. It would appear that the brother wanted the accused to assault Keresi Maya. After a while, the accused, his younger brother and other members of his family went in the brother's vehicle to look for Keresi Maya. On the way, they damaged Keresi Maya's brother's car and assaulted its driver. Then they drove towards Tramanto Bar. The accused and his family members were very drunk at the time. The accused also wanted to fight two bar staffs who threw him out on 21 July 2014. As he approached the bar, the deceased Sailasa Nalesu was standing



beside the flower gardens. He was 49 years old at the time. Without saying any warning, the accused threw a right hand punch at the deceased and he fell to the ground injured. He was later rushed to hospital and he died at about 1am on 10 August 2014.

5. The court checked with defence counsel and the accused to see whether or not the accused had admitted all the elements of manslaughter. Through his counsel, the accused admitted that he threw a right hand punch at the deceased, at the material time (willful act), and that caused the deceased's brain injuries which resulted in his death (willful act caused the deceased's death), and at the time, he was reckless as to causing the deceased serious injuries. The accused, through his counsel, also admitted the particulars of offence. On the basis of the above admissions, I found the accused guilty as charged, and convicted him accordingly.

6. In State v Viliame Ratoa, Criminal Case No. HAC 173 of 2010S, I said the following, "...Manslaughter" is a serious offence, and carries a maximum sentence of 25 years imprisonment. The tariff for manslaughter in Fiji is a suspended prison sentence to a sentence of 12 years imprisonment. Sentences in the upper range were reserved for cases where the degree of violence was high, and the provocation minimal. Sentences in the lower range were reserved for cases where the violence used was minimal, while the provocation was extreme. The tariff covers a very wide set of varying circumstances which will attract different sentences, depending on its own set of facts: Kim Nam Bae v The State, Criminal Appeal No. AAU 0015 of 1998S, Fiji Court of Appeal; The State vs Francis Bulewa Kean, Criminal Case No. HAC 037 of 2007S, High Court, Suva; The State v Tomasi Kubunavanua, Criminal Case No. HAC 021 of 2008, High Court, Suva. Of course, the actual sentence will depend on the aggravating and mitigating factors.

7. The aggravating factors, in this case, were as follows:



- (i) Unprovoked attack. The deceased was innocently standing beside the flower garden as you approached the Tramanto Bar. He had not done anything to you. He was an innocent member of the public, standing there, and he was no threat to you whatsoever. You were very drunk, at the time, having been drinking since you met your friend at 4.30pm that day. You were coming to the Bar to start a fight. You said so in your caution interview statements. You had no regard whatsoever to the deceased's right to personal safety, and his right to life. Without any warning, you threw a right hand punch at him, resulting in his death. You will have to pay for what you did to the deceased with the loss of your liberties.
- (ii) You have caused untold heart aches and sadness to the deceased's family, as a result of your offending. Surely, you wouldn't like anyone doing to you and your family, what you did to the deceased and his family. Your offending had caused others unnecessary sufferings.

8. The mitigating factors, were as follows:

- (i) Although you pleaded guilty to the charge 3 months after the first call, you nevertheless saved the court's time;
- (ii) You are married with five children, and had looked after your family well until this offending;
- (iii) You co-operated with police during the investigation;
- (iv) You were remanded in custody for 4 days.

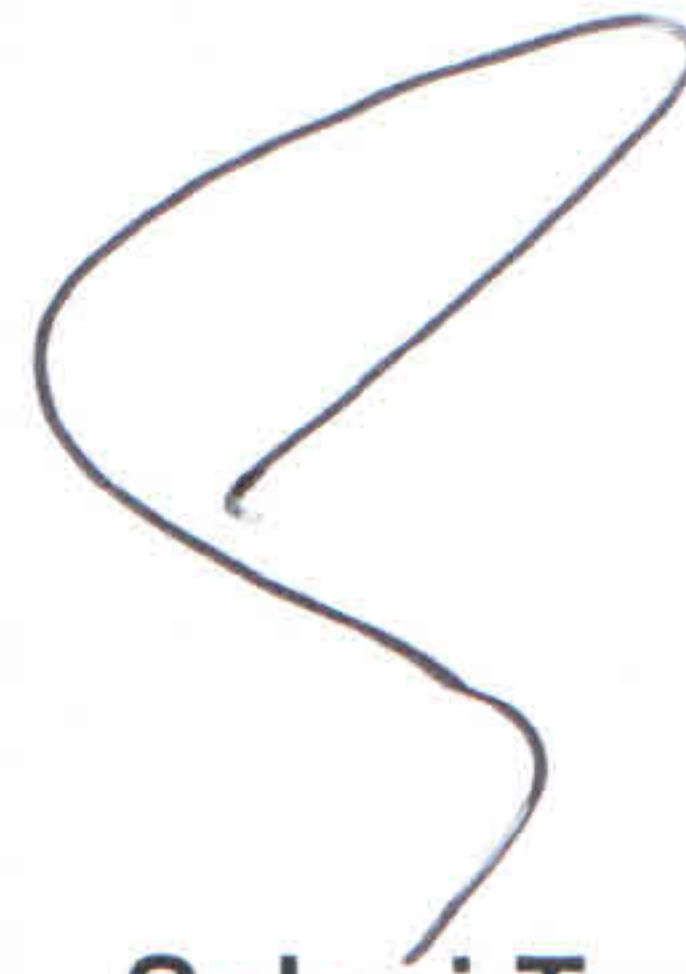
9. I start with a sentence of 5 years imprisonment. I add another 4 years for the aggravating factors, making a total of 9 years imprisonment. I deduct 3 years for the mitigating factors, leaving a balance of 6 years imprisonment.

10. Donasiano Gadeiniusiladi, for the manslaughter of Sailasa Watete Nalesu, I sentence you to 6 years imprisonment, with a non-parole period of 5 years imprisonment, effective forthwith.

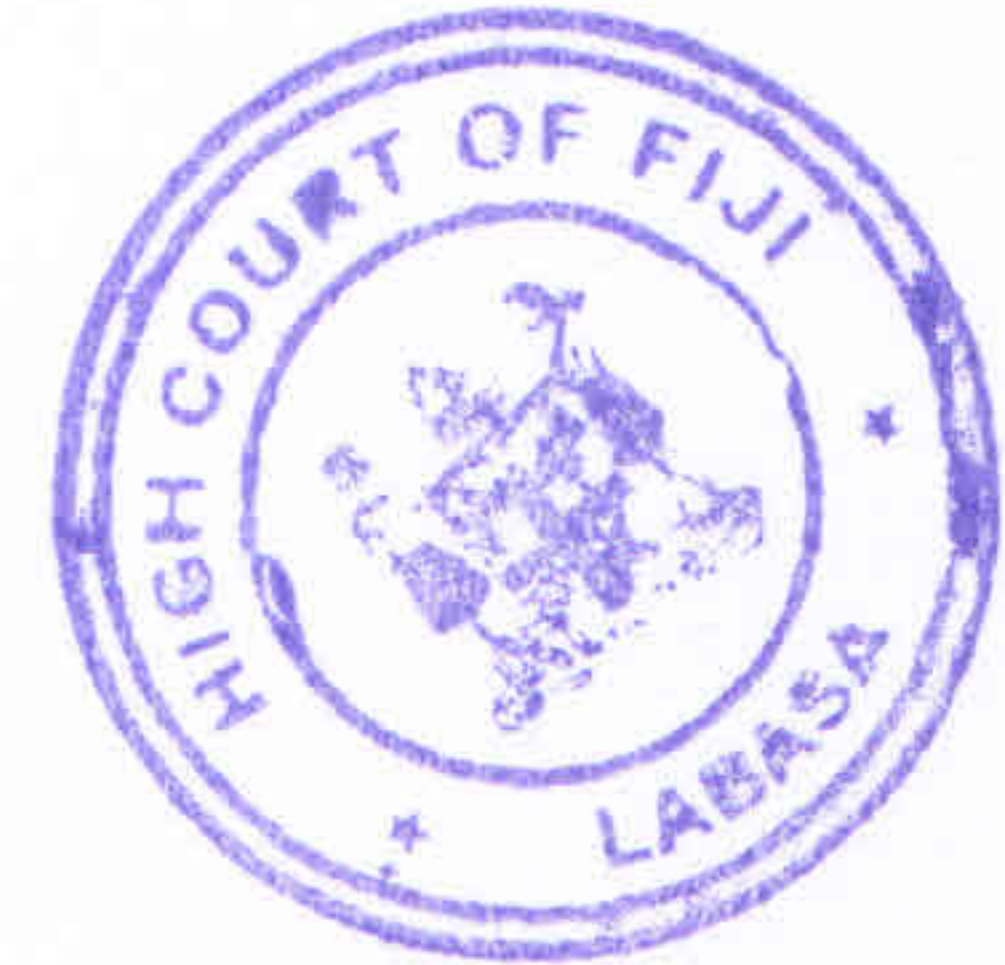
11. I refuse to suspend any part of the prison sentence. This is because a lot of people tend to get drunk, and look around for a fight, not caring about human lives. This is a case in point. People



must realize that if they commit manslaughter, they are liable to go to prison, as the accused is about to experience. I want this case to be a lesson to others.



**Salesi Temo**  
**JUDGE**



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