

IN THE HIGH COURT OF FIJI

AT SUVA

[APPELLATE JURISDICTION]

CRIMINAL APPEAL NO. HAA 012 OF 2025

BETWEEN : **TEVITA VUNIWAQA VAKATALAI**

AND : **STATE**

Counsel : **Appellant in Person**
Ms S Shameem for the State

Date of Hearing : **9 June 2025**

Date of Judgment : **9 June 2025**

JUDGMENT

[1] On 14 January 2025, Tevita Vuniwaqa Vakatalai (the Appellant) was sentenced to one year and nine months' imprisonment after pleading guilty to Possession of An Illicit Drug in the Magistrates' Court at Suva.

[2] The facts are that on 9 May 2024, the Appellant was loitering in a park when police conducted a frisk search. During the search, officers discovered a concealed item inside his pants. Upon being asked to reveal it, the Appellant retrieved a small case from his underwear and handed it over. The case contained seven clear plastic packets containing a white crystal substance. Subsequent testing in a government laboratory confirmed the substance was methamphetamine, weighing 0.494 grams.

[3] On 10 February 2025, the High Court, Criminal Registry received a petition from the Appellant appealing his sentence. The petition cited three grounds for appeal:

1. Insufficient consideration was given to the Appellant's personal circumstances and mitigating factors.
2. The sentence was not reduced by nine months to reflect the remand period.
3. A one-third discount was not applied for the guilty plea.

[4] In his sentencing remarks, the learned Magistrate noted that the maximum penalty for Possession of An Illicit Drug is life imprisonment. He applied the sentencing tariff established in *Abourizk v State* [2019] FJCA 98; AAU0054.2006 (7 June 2019), which sets the range at 3½ to 10 years' imprisonment for 05-250g of hard drugs. The learned Magistrate adopted the lower end of the tariff as the starting point, and reduced the sentence by four months for mitigating factors, three months for the guilty plea, and eight months for the remand period.

[5] At the time of the offence, the Appellant was 38 years old and had a history of prior convictions. Consequently, he was not entitled to any credit for good character, nor did his personal circumstances mitigate the offence. Given this, he was fortunate to receive a four-month reduction for mitigating factors.

[6] His guilty plea was not entered at the first opportunity. Initially, when he appeared in court on 9 July 2024, he pleaded not guilty. He later changed his plea to guilty on 13 November 2024, five months later. The learned Magistrate found that a three-month reduction for the guilty plea was appropriate. The Appellant's counsel informed the court that his remand period was approximately seven months, but the learned Magistrate granted an eight-month reduction.

- [7] In total, the Appellant's sentence was reduced by 15 months to account for mitigating factors and the remand period, reflecting a generous sentence reduction. No aggravating factors warranted an increase in the sentence.
- [8] No errors have been shown in the exercise of the sentencing discretion.
- [9] The appeal against sentence is dismissed.



A handwritten signature in black ink, consisting of a stylized 'D' followed by a cursive flourish.

Hon. Mr Justice Daniel Goundar

Solicitors:

Appellant in Person

Office of the Director of Public Prosecutions for the State