

IN THE MAGISTRATE'S COURT AT SAVUSAVU  
CRIMINAL JURISDICTION

Criminal Case No. 55 of 2011

STATE

v

SEVANAIA BATI

For the Prosecution : Sgt Rinesh  
For the Accused : In Person  
Sentence : 2 March 2018

SENTENCE

1. The accused, Sevanaia Bati, you are before this court today to be sentenced after you pleaded guilty to *Growing and Cultivation of Illicit Drugs*, contrary to section 5(a) of the *Illicit Drugs Control Act*.
2. On 24 October 2017, you waived your rights to counsel. You pleaded guilty to the charge on 17 January 2018, on your own free will. I find your plea to be unequivocal.
3. The brief summary of facts are ; -

*"On 5 January 2011, at about 4am a team of police and army officers raided the accused farm at Somalia, Natuvu Settlement, Viani Village, where they uprooted 8*

plants of marijuana. The 8 plants were sent to Koronivia Research Station for analysis where it was confirmed to be marijuana with weight of 651.7 grams."

4. You admitted to the above summary of facts on 17 January 2018, and convicted as charged.
5. The maximum penalty for this offence is a fine of \$1,000,000.00, life imprisonment, or both fine and imprisonment. The tariff for cultivation as stated by *Madigan. J.* in ***Emori Dibibi v State***, Criminal Appeal No, HAA 96 of 2017 (19 February 2018), is set in ***In re Koroi et al HAR002-006.2012*** (20 April 2012). The categories were;-
  - i. Cultivating less than 5 plants of a weight less than 100 grammes of narcotic, a non custodial sentence at the discretion of the sentencing tribunal.
  - ii. Cultivating 5 to 50 plants of a weight of narcotic between 100 to 1000 grammes, a term of 1 to 6 years.
  - iii. More than 50 plants with weight of over 1000 grammes, imprisonment of 6 years or more.
6. In ***Emori Dibibi*** (*supra*), *Madigan. J.* further stated that there will be times when the plants are many, but small, yielding a minimal weight, a balance will have to be struck between use of the above categories.
7. In this case, there were 8 plants with 651.7 grams and it fall under category 2 above.
8. The aggravating factor in your case is that you are one of the cultivators. It is people like you that are the cause of the availability of marijuana in Fiji. If there is no cultivation of marijuana, for sure crime rate for marijuana will reduce.
9. The compelling mitigating factors are that you seek the court forgiveness and you promise not to re-offend.

10. For your sentence, I pick 3 years as my starting point. I add 1 year for the aggravating factor and that increase your sentence to 4 years. I reduce 8 months for your mitigation and that reduce your sentence to 3 years and 4 months imprisonment.
11. You did not enter an early guilty plea and you are not entitle for the one third reduction. However, I will give 6 months discount for your guilty plea and that reduce your sentence to 2 years and 10 months imprisonment.
12. In perusing the court record, it shows that you have been in remanded in this case for 9 months and 3 weeks. I reduce that from your sentence and it reduce your sentence to 2 years, and 1 week imprisonment.
13. Your final sentence is 2 years, and 1 week imprisonment.
14. Cultivation of marijuana is very prevalent in the Northern Division and deterrent sentence both specific and general is issued to denounce such criminal activity.
15. Sevanaia Bati, I now sentence you to 2 years, and 1 week imprisonment with a non-parole period of 16 months.

28 days to appeal.



C. M. Tuberi  
RESIDENT MAGISTRATE