

IN THE MAGISTRATES' COURT OF FIJI

AT NAUSORI

Levuka Criminal Case No: 55/2018

STATE

V

SIKELI TABATI

For the Prosecution: Sgt. Shalend

The Accused: In person

Date of Sentence : 13th of August 2019


SENTENCE

1. **SIKELI TABATI** , you were convicted after a hearing to 3 counts of Serious Assault contrary to section 277(b) of the Crimes Act No 44 of 2009("Crimes Act").
2. During the hearing the prosecution proved that you with some others were drinking at Levuka town 25th March 2018 and when DC Manoj Kumar asked you to leave the place , you punched his forehead. You also resisted the arrest of SC Simione and also bit his finger. Both police officers received injuries as per the medical reports produced in the court.
3. The maximum penalty for Assaulting Police Officer under the Crimes Act is 05 years imprisonment.
4. In State v Batiratu [2012] FJHC 864; HAR001.2012 his Lordship Chief Justice Anthony Gates (as he then was) held :

"Assault on a police officer is listed under section 277 – headed "Serious Assaults". Serious assaults under this section attract a maximum sentence of 5 years imprisonment. These offences under section 277 are to provide protection for those persons with specific duties to perform, such as to arrest a suspect, or for a police officer to carry out his or her duty, or for anyone aiding a police officer in that regard, and they cover assaults committed during unlawful combinations to raise wages or respecting trade, business or

12. The offences that you convicted are similar nature and hence I am going to impose an aggregate sentence of imprisonment for these 3 counts pursuant to section 17 of the Sentencing and Penalties Act.
13. Considering the objective seriousness I select 12 months as the starting point for your aggregate sentence.
14. There are no aggravating factors and in mitigation you submitted that you are 39 years old, married with 04 children and a farmer. You have a previous conviction from 2015 and hence not entitle for discount for your previous good behavior.
15. For your personal mitigating factors I deduct 03 months to reach 09 months imprisonment.
16. Now I would consider whether to suspend your sentence pursuant to section 26(2) (b) of the Sentencing and Penalties Act.
17. The violent attacks on those who work in law enforcement services are an attack on society itself. The peaceful enjoyment of life by every citizen in Fiji is dependent on the jobs police officers perform each day. Hence severe sentences would be warranted for people who commit this kind of offence. Accordingly I find a custodial sentence is warranted in this case to denounce the behavior of the accused and deter others from similar kinds of offences in future.
18. **SIKELI TABATI**, accordingly you are sentenced to 09 months imprisonment for this charge.
19. 28 days to appeal




Shageeth Somaratne
Resident Magistrate