

**IN THE MAGISTRATES' COURT OF FIJI
AT TAVUA
CRIMINAL JURISDICTION**

Criminal Case No: 112 - 2019

STATE

-v-

SAIMONI DOKONA

Before	:	RM Fotofili L.
For Prosecution	:	WPC Chand A. [Police Prosecution]
Accused	:	In Person, Waived Right To Counsel
Date of Sentence	:	20 th August 2019

SENTENCE

1. **SAIMONI DOKONA**, you have pleaded guilty to the following charge:

Statement of Offence

ABSCONDING BAIL: Contrary to section 25 (1) (a) and 26 (1) of the *Bail Act of 2002*.

Particulars of Offence

SAIMONI DOKONA on the 28th day of February, 2017 at Tavua in the Western Division released on bail by Tavua Magistrate Court, vide Tavua Criminal Case No. 18/17 to attend Tavua Magistrate Court on 2nd day March 2018, failed to surrender to custody and present himself before Tavua Magistrate Court.

2. I have taken judicial notice of the records in file number Tavua CF 18 - 17 [a case involving cultivation of illicit drugs]. The explanation you gave for failing to appear did not amount to good cause.
3. I find you guilty and convict you of the charge.
4. You were granted bail in Tavua CF 18 – 17 and one of your bail conditions was to continue reappearing when your case is adjourned. Once released on bail, the burden is on you to re-appear.

5. You failed to reappear on the 2nd of March 2018 and a warrant was issued for your arrest. You said that you did not appear as your wife lodged a complaint against you for assault.
6. After being arrested and in your interview with the police, you said that you knew your drug's case was to be called at Tavua but you went to Lautoka. You knew police were looking for you. You hid in the bush but you later surrendered yourself to police. You said that you were evading your court case because of the other complaint filed by your wife against you for assault.
7. I will not consider any time you have spent in remand as time served. You had to be remanded in custody as you cannot be relied upon to reappear.
8. You are a first offender.
9. You seek forgiveness. You are 27 years old. You have a 2 year old son. You promise not to reoffend.

LAW

10. The maximum sentence that is imposable by law for breaching a bail condition is a fine of up to \$2,000 and or imprisonment up to 12 months.

TARIFF

11. The tariff for breaching a bail condition and absconding bail are the same. It is between a suspended sentence to 9 months imprisonment [see for example - Ulumatai v State [2019] FJHC 114; HAA90.2018 (22 February 2019)].
12. The High Court has said that 'wilful failure and disobedience of Court Orders and flagrant disregard of rule of law must be met with appropriate sentence.' [Namua v State [2008] FJHC 106; HAA025.2008 & HAA026.2008 (15 May 2008)].

STARTING POINT

13. Considering the circumstance of your case, I select a 1 month imprisonment term as a starting point.

AGGRAVATING FEATURE

14. You were missing or evading arrest for over a year in your drug's case or substantive case CF 18 – 17.
15. I increase your sentence to 2 months and 14 days imprisonment.

MITIGATION

16. You are a first offender.
17. You are remorseful.
18. You surrendered yourself to police.
19. You have cooperated with police during your interview.
20. Your sentence is reduced to 1 month and 15 days imprisonment.

GUILTY PLEA

21. Your guilty plea is early.
22. I will reduce your sentence to 27 days imprisonment.

SUSPENDED SENTENCE

23. I can suspend your sentence pursuant to section 26 (1) and (2) (b) of the **Sentencing and Penalties Act 2009** either wholly or in part.
24. Your sentence will be aimed at deterrence and to punish you adequately.

SUMMARY

25. As explained, no time spent in remand will not be considered as time served.
26. You are sentenced to 27 days imprisonment.
27. I refuse to suspend your sentence.
28. I do not see why the default position that your sentence for absconding bail should be served consecutively to any other sentence be changed.
29. I have considered the totality principle and the one transaction rule and I am aware of your sentence for your assault causing actual bodily harm case CF 111 – 19 which was imposed on you today.
30. I order that your 27 days imprisonment will be served consecutively to your sentence in CF 111 – 19.
31. 28 days to appeal your sentence to the High Court if you are dissatisfied with your sentence.



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Lisiate T.V. Fotofili
Resident Magistrate

Dated at Tavua this 20th day of August, 2019.