

IN THE MAGISTRATES' COURT OF FIJI  
AT TAVUA  
CRIMINAL JURISDICTION

Criminal Case No: 20 - 2019

STATE

-v-

SAKARAIA TELAWA NASARA NABARO

For Prosecution : WPC Chand A. [ Police Prosecution ]  
Accused : Mr Samy A. [ Legal Aid Commission ]  
Date of Sentence : 22<sup>nd</sup> March 2019

**SENTENCE**

1. **SAKARAIA TELAWA NASARA NABARO**, you have pleaded guilty and was found guilty of:

**Statement of Offence**

**BREACH OF BAIL CONDITION:** Contrary to section 25 ( 1 ) ( b ) and 26 ( 1 ) of the *Bail Act No 26 of 2002*.

**Particulars of Offence**

**SAKARAIA TELAWA NASARA NABARO**, on the 17<sup>th</sup> day of January, 2019 at Tavua in the Western Division, breached the bail condition which was imposed on him at Tavua Magistrate court vide case no. CF 286 – 18 curfew order to remain indoors between 7 pm to 6 am.

2. You have accepted or admitted the facts proposed by prosecution and I have checked the records [ in file number CF 286 – 18 a case involving damaging property ] and found your admission supported.
3. This court granted you bail in CF 286 - 18 and one of your bail conditions was to comply with a daily curfew that is between, 7 pm to 6 am.
4. You admit not having a good reason to be in town at around 11.30pm at night.
5. I have found you guilty.

6. You chose to remain silent when police questioned you about the allegation that you breached your bail condition.
7. You have been in remand for 60 days.
8. You are a first offender.
9. It is submitted in your mitigation that you are 18 years old. You have learnt your lesson and promise not to reoffend. You want to support your parents. You have cooperated with police. You have pleaded guilty early. You want to continue your studies if released.

#### **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 3 month imprisonment term as a starting point.

#### **AGGRAVATING FEATURE**

14. You have admitted assaulting someone in town at the time you breached your curfew or bail condition. I will not use this to increase your sentence. That is a matter for another charge.

15. You were out in town at 11.30pm.
16. You breached your bail condition in about 3 months after being imposed that condition and after I expressly warned you to behave whilst out on bail.
17. Your sentence is increased to 5 months imprisonment.

#### **MITIGATION**

18. You will get some reduction for having a past good history.
19. I accept that you are remorseful.
20. You are young.
21. Your sentence is reduced to 2 months imprisonment.

#### **GUILTY PLEA**

22. I accept that your guilty plea is early.
23. I will reduce your sentence to 1 month and 1 week imprisonment.

#### **SUSPENDED SENTENCE**

24. 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.
25. Your sentence will be aimed at deterrence and to punish you adequately.

#### **SUMMARY**

26. You are sentenced to 1 month and 1 week imprisonment.
27. You have spent 60 days in remand.
28. I will not consider that time in remand as time served in this case. You deserved to be remanded in custody. In addition, you have had the benefit of this time deducted already in your other case CF 286 – 18.

29. I refuse to suspend your sentence.
30. You will serve your 1 month and 1 week imprisonment term immediately.
31. 28 days to appeal.



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Lisiata T.V. Fotofili  
**Resident Magistrate**

Dated at Tavua this 22<sup>nd</sup> day of March, 2019.