

**IN THE MAGISTRATE COURT OF FIJI AT SUVA**  
**[CRIMINAL JURISDICTION]**

**CRIMINAL CASE NO: 1466 of 2025**

**STATE**

**VS**

**SEKONAIA RATU**

Counsel : W/Cpl Sharon Prasad for the State  
          : Accused [Unrepresented]  
Date for Sentence : 14 January, 2026

**SENTENCE**

- [1] The accused **Sekonaia Ratu**, is charged with one count of Assault Causing Actual Bodily Harm: - contrary to section 275 of the Crimes Act 2009 and one count of Breach of Suspended Sentence contrary to section 28 (1) of the Sentencing and Penalties Act of 2009.
- [2] The accused pleaded guilty to the charge and admitted the facts, which the Court finds was a willing plea. The facts are that on 13 October 2025, at approximately 6:45 am, the complainant, a bus operator, was driving towards the Suva Bus Station. After the bell rang, the complainant could not safely stop and continued driving to the Ratu Mara Road junction to find a safe space for passengers to alight. The accused, who was a passenger, then confronted the driver about not stopping earlier. The accused punched the complainant on the head and jaw. The matter was reported to Police, and the accused was subsequently charged.

[3] I find the accused guilty and convict him as charged. In considering passing sentences, the court must have regard to section 4 (1) of The Sentencing and Penalties Act Volume 2 Laws of Fiji that define the purpose of sentencing to be ;

1. *To punish offenders to an extent and in a manner which is just in all the circumstances*
2. *To protect the community from offenders*
3. *To deter offenders or other persons from committing offenses of the same or similar nature*
4. *To establish conditions so that rehabilitation of offenders maybe promoted or facilitated.*
5. *To signify that the court and the community denounce the commission of such offenses.*
6. *any combination of these purposes.*

[4] Section 4 (2) of the Sentencing and Penalties Act Volume 2 Laws of Fiji stipulates that:-“In sentencing offenders a court must have regard to –

- a. *the maximum penalty prescribed for the offences;*
- b. *current sentencing practice and the terms of any applicable guideline judgment;*
- c. *the nature and gravity of the particular offence;*
- d. *the offender`s culpability and degree of responsibility for the offence;*
- e. *the impact of the offence on any victim of the offence and the injury, loss or damage resulting from the offence;*
- f. *whether the offender pleaded guilty to the offence, and if so, the stage in the proceedings at which the offender is so or indicated an intention to do so;*
- g. *the conduct of the offender during the trial as an indication of remorse or lack of remorse;*
- h. *any action taken by the offender to make restitution for the injury, loss or damage arising from the offence, including his or her willingness to comply with any order for restitution that a court may consider under this Decree;*
- i. *the offender`s previous character;*
- j. *the presence of any aggravating or mitigating factor concerning the offender or any other circumstance relevant to the commission of the offence; and*
- k. *any matter stated in this Decree as being grounds for applying a particular sentencing option. ”*

[5] I note the maximum penalty for Assault Causing Actual Bodily Harm is 5 years imprisonment. The tariff ranges between a conditional discharge and 12 months imprisonment. For Breach of a Suspended sentence, section 28 of the Sentencing and Penalties Act 2009 reads:

28. — *(1) If at any time during the operational period of a suspended sentence of imprisonment, the offender commits another offence punishable by imprisonment, the offender is guilty of an offence against this section.*  
*(2) A proceeding for an offence under sub-section (1) may be commenced at any time up to 3 years after the date on which the offence is alleged to have been committed.*  
*(3) Upon charging an offender with an offence under sub-section (1) a warrant to arrest the offender may be issued.*  
*(4) If on the hearing of a charge under sub-section (1) the court finds the offender guilty of the offence, it may impose a fine not exceeding 100 penalty units and in addition the court **must restore the sentence or part sentence held in suspense and order the offender to serve it**, but if the court considers that exceptional circumstances exist that make this unjust, the court may instead—*
- (a) restore part of the sentence or part sentence held in suspense and order the offender to serve it; or*
  - (b) in the case of a wholly suspended sentence, extend the period of the order suspending the sentence to a date not later than 12 months after the date of the order under this sub-section; or*
  - (c) make no order with respect to the suspended sentence.*
- (5) Any order for an offender to serve a term of imprisonment under sub-section (4) must be served*  
*(a) immediately; and*  
*(b) unless the court orders otherwise, consecutively on any other term of imprisonment previously imposed on the offender by that court or any other court. (My emphasis)*

[6] This Court refers to the direction given by His Lordship Justice Daniel Goundar, concerning Breach of a Suspended Sentence in Tamani v State [2008] FJHC 328; HAA090.2008 (28 November 2008):

*“The proper approach, where a fresh offence has been committed during the period of the suspension of an earlier sentence and the accused is brought before the court was laid down in R v Ithell (1969) 2 AER 449 and followed by Pathik J in Matai v the State (1993) Criminal Appeal No 23 of 1993. The procedure is that the court should first sentence the offender in respect of the fresh offence by punishment appropriate to that offence, and thereafter address itself to the question of the suspended sentence. The court should then direct its mind to the issue of concurrency of sentences. In considering this issue the court should bear in mind that unless there are some quite exceptional circumstances, the*

suspended sentence should be ordered to run consecutively to the sentence given for the fresh offence." (My Emphasis)

- [7] Further directions on sentencing was given in Laisiasa Koroivuki v the State [2013] FJCA 15: AAU0018.2010 (5 March 2013) The Court of Appeal discussed the guiding principles for determining the starting point in sentencing in the following manner:

*"In selecting a starting point, the court must have regard to an objective seriousness of the offence. No reference should be made to the mitigating and aggravating factors at this time. As a matter of good practice, the starting point should be picked from the lower or middle range of the tariff. After adjusting for the mitigating and aggravating factors, the final term should fall within the tariff. If the final term falls either below or higher than the tariff, then the sentencing court should provide reasons why the sentence is outside the range".*

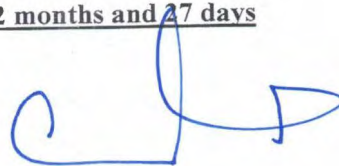
- [8] The Court adopts the above, first consideration will be given to count 1 which is Assault Causing Actual Bodily Harm. Having regard to the objective nature of the offending the Court takes a starting point at the lower end of the spectrum. A starting point of 6 months is imposed.
- [9] The aggravating feature is that the complainant is a public service provider. These providers are considered a vulnerable class and the Courts have denounced attacks on them. See Tuinivono v State [2025] FJCA 131; AAU052.2024 (26 August 2025) and State v Tuinivono[2024] FJHC 450; HAC 182 of 2023 (24 July 2024). For these aggravating features an additional 6 months is added to the sentence. The sentence now stands at 12 months imprisonment.
- [10] In mitigation, the accused stated that he is a carpenter by profession, he is employed with Public Works and earns \$280.00 fortnightly. He is married and has three kids. He seeks forgiveness. For his mitigation 3 months is deducted and for his early guilty plea a further 3 months is deducted.
- [11] For one count of assault causing actual bodily harm, the accused is sentenced to 6 months imprisonment.
- [12] Now in adopting the approach made in Tamani will now deal with Breach of a Suspended Term. When the summary of facts were read to the accused he admitted to the same. When the previous convictions were shown to the accused after the summary of facts were read, he admitted to them as well. According to the previous convictions, the accused was sentenced for one count of theft and sentenced to 10 months imprisonment suspended for 5 years.

- [13] These 10 months **have to be served** according to s. 28 (4) of the Sentencing and Penalties Act 2009. This Court now directs its mind to the consideration of whether these 10 months imprisonment will be served concurrently or consecutively with his sentence in court 1 above.
- [14] The accused was given an opportunity to present any exceptional circumstances to the Court as to why a consecutive sentence would be inappropriate. The reasons provided by the accused were: (1) his employment would be adversely affected by a custodial sentence; (2) he was initially provoked by the complainant in count 1 to commit the assault; and (3) he is a single parent. In the Court's considered view, these do not constitute exceptional circumstances that would warrant a concurrent sentence.
- [15] Finally, the accused has been in remand since 14 October 2025. That would mean 93 days in remand and this time is to be deducted from his sentence.
- [16] So putting it all together, for count 1, the accused is sentenced to 6 months imprisonment. For count 2 the suspended term is activated in its entirety which is 10 months imprisonment. The term is made consecutive meaning the total term is 16 months imprisonment. For these 16 months imprisonment, a total of 93 days is deducted as time served. This would leave a total of 12 months and 27 days that the accused has to serve.

[17] **For ease of reference ;**

1. **For one count of Assault Causing Actual Bodily Harm the accused is sentenced to 6 months imprisonment.**
2. **For one count of Breach of Suspended Sentence the accused is sentenced to 10 months imprisonment.**
3. **The sentences are consecutive, meaning the total sentence is 16 months imprisonment.**
4. **93 days is deducted as time spent in remand**
5. **FINAL SENTENCE is 12 months and 27 days**
6. **Sentence explained.**

28 days to appeal.



**Charles Ratakele Mr.]  
Resident Magistrate**



Delivered this on 14<sup>th</sup> day of January, 2026.