

IN THE MAGISTRATES' COURT OF FIJI
AT RAKIRAKI
[CRIMINAL JURISDICTION]

Criminal Case no: CF 322/25

STATE
v.
ILAITIA BIDENI

For Prosecution: A/Cpl I Ali

For Accused: Present with Ms F Lewanavanua

Plea: 6th March 2026

Conviction: 18th March 2026

Sentence: 18th March 2026

SENTENCE

1. **Ilaitia Bideni** [hereinafter referred to as '**Accused**'] is charge with *first count* of **Assault Causing Actual Bodily Harm**: contrary to section 275 of the Crimes Act 2009, the *second count* of **Breach of Domestic Violence Restraining Order**: contrary to section 77 (1) of the Domestic Violence Act 2009 and the third count of **Breach of Bail condition**: contrary to 25 (1), (b) and 26 (1) of the Bail Act 2002 and Bail Amendment Act 2012.
2. You received a full set of disclosures from the police prosecutor. You preferred the *Fijian* language. You are represented by a LAC counsel.
3. You told the Court on 30/9/25, that the victim – *Elea Daucakacaka* is your wife, so the offending of Count 1 is a domestic violence offence.
4. On 6/3/26, in the presence of your LAC counsel, the charge read, explained, understood by you and pleaded guilty to the charge, on your own free will. You understood and admitted to the Summary of Facts (Count 1) read (translated in *Fijian* language) to you in Court. The Court noted only the Summary of Facts of Count 1 read to you.

[Summary of Facts- Count 1]

On 27/9/25 at 11am the accused was drinking alcohol in Rakiraki town and continued drinking at Malake Island. The victim told the accused to go and change his clothes because it was dirty. The accused didn't like what the victim told him and he punched her head once. The accused followed the victim went to their house at Matasevu settlement. The accused apologized to the victim. The accused told the victim to go to Naba settlement to bring some loose changes of cash. The victim went to Naba settlement

and met the accused returning from Naba settlement. The victim sat on the beach to wait for the accused to go pass. The accused called the victim and when she looked up the accused punched the victim 3 times on the head and once on the mouth. The victim fled to Matasevu settlement. The accused followed the victim and tore her clothes. Tulia Tuidrola was inside the house when she heard the victim voice. She brought the victim into her house and gave her clothes to wear. The accused forcefully entered the house of Tulia Tuidrola, punched the victim's head twice and he went home. Tulia Tuidrola reported the matter to Rakiraki Police Station. The victim medically examined at Rakiraki Hospital.

5. On 11/3/26, in the presence of LAC counsel, you understood and admitted to the Summary of Facts (Count 2 & 3) read (translated in Fijian language) to you in Court. The Court noted only the Summary of Facts of Count 2 and 3 read to you.

[Summary of Facts- Count 2 & 3]

The accused breached the domestic violence restraining Order of Section 27 (non-molestations conditions) for Criminal case no: CF 113/25 issued by the Rakiraki Magistrate Court so was bound by and without reasonable excuse contravened the Order by assaulting and threatening the victim- Elea Daucakacaka.

The accused breached the strict bail conditions of criminal case number: CF 113/25 by re-offending during the operation period of the strict bail conditions.

The police arrested the accused. The accused remained silent during the caution interview.

6. The prosecutor tendered the victim's medical report as prosecution evidence. The victim sustained *swelling noted below the right ear and tender* as the result of your assault.
7. I am satisfied with your guilty plea to the charge and your admission to the Summary of Facts in support of the charge. I find you guilty as charged and I convict you accordingly.
8. The maximum sentence for **Assault Causing Actual Bodily Harm** is 5 years imprisonment.
9. In **Matai v State** [2018] FJHC 25; Criminal Appeal 108.2017Ltk (26 January 2018) Madigan J held that:

"...it must now be said that the tariff for a domestic violence assault causing actual bodily harm is a wide range of 6 to 18 months, wide enough to cater for all kinds of injuries. It would be only in exceptional circumstances that a suspended sentence would be passed for the offence, given that sending the convict back into the family home could

well have perilous consequences. For a second offence on the same victim, a suspended sentence is inconceivable.” [my underlining]

10. The sentence for **Breach of Domestic Violence Restraining Order** is-
 - (a) subject to paragraph (b), to a fine of \$1,000 and a term of imprisonment of 12 months;
 - (b) if the person has previously been convicted of an offence of breach of a domestic violence restraining order, to a fine of \$2,000 and a term of imprisonment of 12 months.
(my underlining)
11. There is no set tariff for *Breach of DVRO*.
12. The maximum sentence for **Absconding Bail conditions/Breach of bail** under the Bail (Amendment) Act 2012 is liable on conviction to a fine of \$2,000 or 12 months imprisonment, or both.” The tariff for Absconding bail conditions is non-custodial to 9 months imprisonment. [*Lalaqavesi v State*, Criminal Appeal No. HAA 83 OF 2018 and HAA 77 of 2018] [my underlining] The Court is of the opinion that since the sentence for Absconding bail and Breach of bail are from the same Act, same provision then the tariff for Absconding bail to apply to the offence of Breach of bail. Therefore, I adopt the tariff for the present case.
13. The aggravating factors are *the domestic violence with the victim, the number of assault on the victim on the day, you were intoxicated, you embarrassed the victim by stripping her clothes, she will be traumatize and you have a history of domestic violence on the same victim.*
14. The mitigating factors are *you reconciled with complainant, promise not to re-offend and cooperate with the police*
15. You are not a first offender so the Court will regard you to be of bad character. You admitted in Court that you have a previous conviction of ACABH in 2025. The Court checked the criminal case no: CF 148/25 and noted that the victim in that case is the same victim in the present case. The Court note that this Court for Criminal case no: CF 113/25 [Common Assault] convicted you and the victim is that case was the same victim in the present case. For CF 113/25, the prosecution has yet to update the Criminal Records Office.
16. For the early guilty plea, you have saved the court and prosecutions time to run a full hearing so full discount (1/3) to the sentence.
17. In sentencing you, the Court takes into account the factors outlined in section 4 (1) - (3) of the Sentencing and Penalties Act, 2009.
18. The Court pick the sentence of ACABH as the head because of the maximum sentence is higher.
19. Taking into consideration the objective seriousness of the offence of **ACABH** because of its maximum sentence and its tariff, the Court picks a starting point of 6 months imprisonment

and I add 12months for the aggravating factor so the interim sentence is 18months imprisonment. I deduct 3months for the mitigating factors so the interim sentence is 15months imprisonment. I further deduct 3months for the early guilty plea so the sentence is 10months imprisonment.

20. I'm mindful of section 26 (2), (b) of the Sentencing and Penalties Act 2009 that I have the discretion to suspend the final sentence when it is below 2 years imprisonment.
21. The court looks at the sentencing remarks of Goundar J in **Balagan v State** [2012] HAA 31/11S 24 April 2012 at [20] in considering to suspend a sentence:

'Whether an offender's sentence should be suspended will depend on a number of factors. These factors no doubt will overlap with some of the factors that mitigate the offence. The final test for an appropriate sentence is – whether punishment fits the crime committed by the offender?' (my underlining)

22. The offence of domestic violence is prevalent in society and the women are always the victims.
23. The court denounces your action on the victim because she is your wife. You must learn to control your anger. The victim is not your property.
24. You are a recidivist and you are a threat to your wife. You committed the present offence after 9days when the court imposed a suspend sentence on you for Criminal case no: CF 148/25. Your action shows that you do not have any respect of the Court orders.
25. You were in remand for this case since 30/9/25 until 17/3/25 (168days = 5months and 18days). I round off the remand period to 170days = 5months and 20days. So time in remand in time served. Your actual sentence for Count 1 is 4months and 10days.
26. Considering your criminality, I will not suspend the sentence.
27. For **Count 1**, you are sentence to 4months and 10days imprisonment and you will serve it immediately.
28. For **Count 2**, you are sentence to 4months imprisonment and you will serve it immediately.
29. For **Count 3**, you are sentence to 3months, which you will serve it immediately.
30. Section 22 (2), (e) of the Sentencing and Penalties Act 2009 states:

22 (1) Subject to subsection 2, every term of imprisonment imposed on a person by a court must, unless or otherwise directed by the court be served concurrently with any uncompleted sentence or sentences of imprisonment.

(2) Subsection 1 does not apply to a term of imprisonment-

...

(e) on any person for an offence committed while released on bail in relation to another offence.

31. I order that your sentence of Count 3 to serve it consecutively pursuant to section 22 (2), (e) of the Sentencing and Penalties Act 2009 because you committed the offence of Count 1 while you were on strict bail conditions for Criminal case no: C F 113/25.
32. The sentence of Count 1 and 2 to run concurrently and the sentence of Count 3 to serve it consecutively. Therefore, you will serve a total of **7months and 10days imprisonment**.
33. In addition, Section 27 (non-molestations conditions) and section 29 (non-contact conditions) of the DVRO is final on you for the protection of the victim. The Order can vary, suspend or discharge upon the application of the victim or you.
34. You must not breach the Permanent DVRO (section 27 and 29) or you may be charge for **Breach of Domestic Violence Restraining Order** contrary to section 77 of the Domestic Violence Act 2009.
35. The assistant court officer will explain to you the meaning of a concurrent and consecutive and breach of DVRO (*explained*).

28 days to appeal to the High Court

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T. B. Qalinauci
[Resident Magistrate]



**Divisional Prosecuting Officer/Western
LAC**