

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

Criminal Case No: 159 – 2018

Criminal Case No: 180 - 2018

STATE

-v-

SAVENACA NASARA

For Prosecution: Sgt Samy [Police Prosecution]

Accused: In person, waived right to counsel

Date of Sentence: 24th day of August 2018

SENTENCE

BACKGROUND

1. 1. **SAVENACA NASARA**, you have pleaded guilty in two separate cases. Both cases involve your inability to comply with your bail.

1. 2. In Tavua CF 159 – 18 you pleaded guilty to :

Statement of Offence

ABSCONDING BAIL: Contrary to section 25 (1) (c) and 26 (1) of the *Bail Act of 2002 and the Bail Amendment Act of 2012*.

Particulars of Offence

SAVENACA NASARA on the 14th day of March, 2018 at Tavua in the Western Division, whilst released on bail by Tavua Magistrate Court vides Tavua CF: 157/17 fails to present himself at the Tavua Magistrate Court.

1. 3. In this case, as part of your bail condition, you were required to report at the Tavua Police Station between 6am to 6pm. You arrived late by 15 minutes. You told police that you were out fishing to support your family and the boat engine failed.

1. 4. I did not accept the mechanical fault to be a reasonable excuse.

1. 5. You were aware that you needed to report that day and you should have been careful about going out to sea. You should have foreseen that that you could get stuck out there. You could have reported first at the station before going out to sea, or you could have gone earlier out to sea so you can be back early or you should not gone out to sea at all and go on another day. There are other options.

1. 6. I have found you guilty based on your guilty plea.

1. 7. In your other case CF 180 – 18, you pleaded guilty to:

Statement of Offence

BREACH OF BAIL CONDITION: Contrary to Section 25 (1) (c) and 26 (1) of the *Bail Act No 2 of 2000 [sic] and the Bail Amendment Act No. 28 of 2012.*

Particulars of Offence

SAVENACA NASARA on the 28th day of May, 2018 at Tavua in the Western Division,

Bailed by Tavua Magistrate Court vide CF-157/17 and CF – 35/18 breached by not complying with the condition imposed by Tavua Magistrate Court.

1. 8. In this case, you admitted not attending your court case on the 14th day of March 2018. The year should have been 2017 and not 2018 but I'm satisfied that you are not substantially prejudiced because of the wrong date mentioned in the facts and the particulars.
1. 9. I have checked the file CF 157 – 1 7 and it reflects that you were not present in court on the 14th day of March 2017 despite being bailed by police to attend. Police bail is still bail. You breached that.
1. 10. You told police when questioned that you came to court and did not see your name on the board. You asked the court staff about your case but they did not tell you anything. You did not check with the police. You then went home.
1. 11. This explanation was bogus.
1. 12. If you came on that day, your presence would have been recorded. The prosecution was present and that is why their presence was noted in the court file. You were absent.
1. 13. You were rightly convicted.
1. 14. You have been in remand it seems to me for both cases for about 2 months.
1. 15. You have previous convictions for larceny, damaging property and being found in possession of illicit drugs. Although these were convictions in the late 1990's, I will not disregard them or consider them irrelevant.
1. 16. For instance, larceny involves an element of dishonesty.
1. 17. Your explanation to police for not appearing in court on the 14th day of March 2017, was a plain lie.

1. 18. You have not learnt from your past.

1. 19. In your mitigation you seek forgiveness and promise not to re-offend. You are farming but you say that you will still be able to pay a fine. You support your wife and 2 children.

1. 20. I will give you an aggregate sentence for both your files CF 159 – 18 and CF 180 – 18 pursuant to section 17 of the *Sentencing and Penalties Act 2009*.

1. 21. I will take the 2 months you have already spent in remand as your imprisonment term for both your files. So 2 months imprisonment is the aggregate sentence for both your files.

1. 22. You are deemed to have served your sentence already and there is no need for me to consider whether to order that it run concurrently or consecutively to the sentence I passed earlier on you today for your traffic files CF 35 – 18 and CF 157 – 17.

1. 23. 28 days to appeal.

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Lisiate T.V. Fotofili
Resident Magistrate

Dated at Tavua this 24th day of August, 2018.