

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 022 OF 2024

STATE

-v-

1. **JUSTIN STEVEN MASHI HO**
2. **DAVID OTTO HERITAGE**
3. **LOUIE FRANK PENIJAMINI LOGAIVAU**
4. **RATU APOROSA DAVELEVU**
5. **SAKIUSA TUVA**
6. **JALE AUKEREA**
7. **RATU OSEA NAIVALUNILOTU LEVULA**
8. **CATHY TUIRABE**
9. **VILIAME COLOWALIKU**

Counsel:

Mr. J. Rabuku with Mr J. Nasa	for the State
Mr. I. Khan with Mr. S. Heritage	for 1 st Accused
Ms. L. Volau	for 2 nd Accused
Mr. M. Anthony with Mr. R. Bancod	for 3 rd Accused
Mr. S. Nand with Ms. V. Cava	for 4 th Accused
Mr. T. Varinava	for 5 th Accused
Mr. E. Wainiqolo	for 6 th Accused
Mr. M. Naivalu	for 7 th Accused
Ms. B. Kumari	for 8 th Accused
Ms. P. Reddy	for 9 th Accused

Date of Judgment	:	31 July 2025
Dates of Sentence Hearing	:	8 & 13 August 2025
Date of Sentence	:	28 August 2025

SENTENCE

(Possession and Importation of Methamphetamine-Proceeds of Crime)

1. The Accused were tried on multiple counts associated with possession and importation of methamphetamine on the following information filed by the Director of Public Prosecutions:

COUNT 1

Statement of Offence

UNLAWFUL IMPORTATION OF ILLICIT DRUGS: Contrary to Section 4 (1) of the Illicit Drugs Control Act 2004.

Particulars of Offence

JUSTIN HO STEVEN MASHI HO and DAVID OTTO HERITAGE between the 01st day of November 2023 to the 23rd day of December 2023, at Nadi in the Western Division, without lawful authority, facilitated the importation of in excess of 4.15 Tonnes of methamphetamine, an illicit drug.

COUNT 2

Statement of Offence

UNLAWFUL POSSESSION OF ILLICIT DRUG: Contrary to Section 5 (a) of the Illicit Drugs Control Act 2004.

Particulars of Offence

JUSTIN HO STEVEN MASHI HO, DAVID OTTO HERITAGE, and LOUIE FRANK PENIJAMINI LOGAIVAU, on the 23rd day of December, 2023, Denarau, Nadi in the Western Division, without lawful authority, had possession of an excess of 4.15 Tonnes of methamphetamines, an illicit drug.

COUNT 3

Statement of Offence

UNLAWFUL POSSESSION OF ILLICIT DRUG: Contrary to Section 5 (b) of the Illicit Drugs Control Act 2004.

Particulars of Offence

JUSTIN HO STEVEN MASHI HO and LOUIE FRANK PENIJAMINI LOGAIVAU on the 23rd day of December, 2023, at Nadi in the Western Division, without lawful authority, engaged in dealing for the transfer and transport of in excess 4.15 Tonnes of methamphetamines, an illicit drug from David's Marine Repairs Yard, Industrial Road, Denarau, Nadi to Subzero Car Wash/I yard, Denarau Industrial Road, Denarau, Nadi.

COUNT 4

Statement of Offence

UNLAWFUL POSSESSION OF ILLICIT DRUG: Contrary to Section 5 (a) of the Illicit Drugs Control Act 2004.

Particulars of Offence

JUSTIN HO STEVEN MASIHO, and **LOUIE FRANK PENIJAMINI LOGAIVAU** on the 24th day of December, 2023, at the Subzero Car Wash/I yard, Denarau Industrial Road, Denarau, Nadi in the Western Division, without lawful authority, were in possession of in excess of 4.15 Tonnes of methamphetamines, an illicit drug.

COUNT 5

Statement of Offence

UNLAWFUL POSSESSION OF ILLICIT DRUG: Contrary to Section 5 (b) of the Illicit Drugs Control Act 2004.

Particulars of Offence

LOUIE FRANK PENIJAMINI LOGAIVAU, **RATU APOROSA DAVELEVU**, and **ANOTHER**, between the 28th day of December, 2023 and the 29th day of December, 2023, at Nadi in the Western Division, without lawful authority, engaged in dealing for the transfer and transport of in excess of 4.15 Tonnes of methamphetamines, an illicit drug from Subzero Car Wash/I yard, Denarau Industrial Road, Denarau, Nadi to Motorex Business Centre, 15 Nadi Back-Road, Nadi.

COUNT 6

Statement of Offence

UNLAWFUL POSSESSION OF ILLICIT DRUG: Contrary to Section 5 (a) of the Illicit Drugs Control Act 2004.

Particulars of Offence

LOUIE FRANK PENIJAMINI LOGAIVAU and **RATU APOROSA DAVELEVU** on the 29th day of December, 2023, at Motorex Business Centre, 15 Nadi Back-Road, Nadi in the Western Division, without lawful authority, were in possession of in excess of 4.15 Tonnes of methamphetamines, an illicit drug.

COUNT 7

Statement of Offence

UNLAWFUL POSSESSION OF ILLICIT DRUG: Contrary to Section 5 (b) of the Illicit Drugs Control Act 2004.

Particulars of Offence

SAKIUSA TUVA & ANOTHER between the 29th day of December, 2023 to the 14th day of January, 2024, at Nadi in the Western Division, without lawful authority, engaged in dealing for the transfer and transport of in excess of 4.15 Tonnes of methamphetamines, an illicit drug from Motorex Business Centre, 15 Nadi Back-Road, Nadi to Voivoi, Legalega, Nadi.

COUNT 8

Statement of Offence

UNLAWFUL POSSESSION OF ILLICIT DRUG: Contrary to Section 5 (a) of the Illicit Drugs Control Act 2004.

Particulars of Offence

JALE AUKEREA, SAKIUSA TUVA, RATU OSEA NAIVALUNILOTU LEVULA, CATHY TUIRABE and VILIAME COLAWALIKU between the 29th day of December, 2023 to the 14th day of January, 2024, at Voivoi, Legalega, Nadi in the Western Division, without lawful authority were in possession of in excess of 4.15 Tonnes of methamphetamines, an illicit drug.

COUNT 9

Statement of Offence

UNLAWFUL POSSESSION OF ILLICIT DRUG: Contrary to Section 5 (b) of the Illicit Drugs Control Act 2004.

Particulars of Offence

JALE AUKEREA, SAKIUSA TUVA and ANOTHER, between the 13th day of January, 2024 to the 20th day of January, 2024, at Maqalevu Nadi in the Western Division, without lawful authority, engaged in dealing for the transfer, transport and storage of 1.05 Tonnes of methamphetamines, an illicit drug from Voivoi, Legalega, Nadi to Maqalevu, Narewa.

COUNT 10

Statement of Offence

POSSESSION OF PROPERTY SUSPECTED OF BEING PROCEEDS OF CRIME: Contrary to Section 70 (1) (a) of the Proceeds of Crime Act 1997.

Particulars of Offence

JUSTIN HO STEVEN MASHI HO on the 23rd day of January 2024 at Taveuni in the Northern Division, possessed cash amounting to FJD 21,691.60, AUD 450.00 and USD 100.00, suspected of being proceeds of crime.

COUNT 11

Statement of Offence

POSSESSION OF PROPERTY SUSPECTED OF BEING PROCEEDS OF CRIME: Contrary to Section 70 (1) (a) of the Proceeds of Crime Act 1997.

Particulars of Offence

LOUIE FRANK PENIJAMINI LOGAIVAU on the 23rd day of January 2024 at Taveuni in the Northern Division, possessed cash amounting to FJD 112.25, suspected of being proceeds of crime.

COUNT 12
Statement of Offence

POSSESSION OF PROPERTY SUSPECTED OF BEING PROCEEDS OF CRIME:
Contrary to Section 70 (1) (a) of the Proceeds of Crime Act 1997.

Particulars of Offence

JALE AUKEREA on the 23rd day of January 2024 at Taveuni in the Northern Division,
possessed cash amounting to FJD 2100.85 suspected of being proceeds of crime.

2. Before the trial began, the 5th and the 8th Accused pleaded guilty on their own free will to the charge/s relevant to them. They understood the facts read in Court and agreed to them. Being satisfied that the guilty pleas were unequivocal and voluntary, the Court found them guilty and convicted them accordingly. The 1st, 2nd, 3rd, 4th, 6th, 7th and 9th Accused stood trial. After a lengthy trial, they were convicted as follows:

The 1st Accused was convicted on Counts 1, 2, 3, 4 and 10.

The 2nd Accused was convicted on Counts 1 and 2.

The 3rd Accused was convicted on Counts 2, 3, 4, 5 and 6.

The 4th Accused was convicted on Count 5.

The 6th Accused was convicted on Counts 8, 9, and 12.

The 7th and the 9th Accused were convicted on Count 8.

3. I am now faced with the most challenging task of crafting a sentence for each offender. At the outset, I must thank the Counsel who have filed helpful written submissions. Mr Nand and Mr Anthony have tendered useful research material for which I am grateful.
4. This is not a run-of-the-mill case. It involved more than 4.5 tonnes of methamphetamine (estimated at FJD 2 billion in value), the largest illicit drug consignment ever found in the Pacific. The consignment was transferred from a foreign superyacht to a local barge in the high seas and offloaded safely at Fantasy Island near Denarau, the main tourism hub in Fiji. The consignment was then transferred to various locations undetected for more than three weeks until it was finally detected and seized by the police in two different places near Nadi. Each offender came into contact with the full consignment of drugs at some stage of its movement from Fantasy Island to Maqalevu.

5. It was proved that the methamphetamine consignment was imported into Fiji jointly by the 1st and 2nd Accused. The transfer and the possession of the drugs within Fiji were proved, and the role played by each Accused was clearly identified and proved. Upon arrival in Fiji, the consignment was transferred to the David Marine Repairers in Denarau owned by the 2nd Accused; it was subsequently moved by the 1st and 3rd Accused to the warehouse in Denarau, controlled by the 1st Accused and then to Motorex at Nadi Back Road by the 3rd and 4th Accused. The 5th and 6th Accused, along with another, then transferred it to the house at Legalega, where 1128 containers were jointly possessed by 5th, 6th, 7th, 8th and 9th Accused. 331 containers were transferred to the house at Maqalevu, where 5th and 6th Accused were in joint possession.
6. In selecting a sentence that fits the offence and the offender, the Court must regard the proportionality principle enshrined in the Constitution¹ and the sentencing principles enshrined in Section 4 of the Sentencing and Penalties Act 2009 (SPA).
7. The SPA does not provide any specific guidelines as to what methodology should be adopted by the sentencing court in computing the sentence. Subject to the current sentencing practice and in terms of any applicable guideline judgment, the sentencing court is left with a degree of flexibility as to the sentencing methodology, which might often depend on the complexity or otherwise of every case².
8. In Fiji, the courts by and large adopt a two-tiered process of reasoning where the sentencer first considers the *objective* circumstances of the offence (factors going to the gravity of the crime itself) to gauge an appreciation of the seriousness of the offence (tier/stage one), and then considers all the *subjective* circumstances of the offender (often a bundle of aggravating and mitigating factors relating to the offender rather than the offence) (tier/stage two), before deriving the sentence to be imposed.
9. I would prefer to adopt a two-tiered methodology in this case, not only because it represents the current sentencing practice, but it also has the advantage of providing consistency in sentencing and promoting judicial accountability. But, given the complexity and uniqueness of this case, I would not strictly follow the mathematics in

¹ Section 11 (1) and 15 (1) of the Constitution

² [P 48] *Qurair v State* [2015] FJSC 15; CAV24.2014 (20 August 2015)

computing the sentence inherent in the two-tiered approach, but rather adopt some aspects of ‘instinctive synthesis’ methodology, which only requires the courts to make a value judgment by taking into consideration all factors and weighing and balancing those factors³.

10. By adopting this two-grid approach, I expect to avoid the pitfalls inherent in the mechanistic way the sentencing courts in Fiji adopt in arriving at a sentence by assigning quantified terms for aggravating and mitigating features⁴. What I would propose to do is just identify the starting point and then state the aggravating and mitigating factors and then announce the ultimate sentence without saying how much was added for aggravating factors and how much was deducted for mitigating factors.
11. To determine the appropriate starting point within the sentencing range set by the guideline judgment, I am supposed to look at the seriousness of the offence. This assessment will be based on the maximum sentence prescribed and the culpability and the harm factors. The culpability will be measured based on the role played by each offender and the quantity, purity and street value of the illicit drug. After selecting an appropriate starting point, I will proceed to tier two where appropriate adjustments are made to the starting point based on the aggravating and mitigating circumstances to reach the final sentence.

The Nature and Gravity of the Offence⁵

12. The illicit drug offending has become a serious problem in Fiji. Large quantities of hard drugs have been seized in the recent past. Fiji has become an attractive transit point for drug traffickers largely due to its convenient location in the South Pacific linking the supply route of the Americas with Australia and New Zealand, where the illicit drug trade has become a lucrative underground business. There was evidence in this case suggesting an involvement of a foreign drug cartel working in collaboration with local agents for transborder traffic, while a small quantity infiltrated the local market for sale and to be used by the intermediaries to drug the recruits to work as peddlers and couriers or mules.

³ [P 50,51] *Qurai v State* [2015] FJSC 15; CAV24.2014 (20 August 2015)

⁴ [Para 39] *Nadan v State* [2019] FJSC 29 (31 October 2019)

⁵ Section 4(2) (c) of the Sentencing and Penalties Act 2009

13. In the recent past, the illicit hard drug cases have shown a marked increase in Fiji, where methamphetamine is at the top⁶. The Illicit drug trade has international ramifications. It has badly affected Fiji's socio-economic fabric, the health of its citizens and the national security.
14. The current estimated street value for 4.1 tonnes of methamphetamine is \$2 billion⁷. As far as the consignment in the present case is concerned, the average purity level was as high as 80%. If it went undetected, the traffickers would have been able to adulterate it by mixing other substances to increase the profit margin.
15. Methamphetamine is considered one of the most dangerous of drugs. In May 2003, the New Zealand Parliament, having considered the recommendation given to the Minister of Health by the Expert Advisory Committee on Drugs, classified methamphetamine as a Class A drug and increased the sentence for importation, manufacture or supply of methamphetamine from 14 years to life imprisonment⁸. The reasons given for the recommendation listed below are relevant to this Court because they shed light on the Court's consideration of protecting the community from the offenders.⁹ Fiji is more vulnerable given its strained economy, already feeding the poor, uneducated and under-privileged communities.
 - (a) The use and manufacture of methamphetamine in New Zealand is growing, seizures are increasing, and it has potential appeal to vulnerable populations.
 - (b) There are pronounced long-term physical and psychological adverse effects associated with methamphetamine abuse.
 - (c) There are significant risks to public health from intravenous use of methamphetamine, as well as the dangers posed by illicit clandestine laboratories.
 - (d) There are few, if any, therapeutic applications for methamphetamine.

⁶ Of the 188 cases, 46 (24%) cases were related to methamphetamine. Of all cases relating to unlawful possession, 18 were for methamphetamine and the remaining 14 were for marijuana. A total of 163 people were charged for drug-related offences, where five were high school students. Source: Fiji Police Force Statistics

⁷ Based on UNODC pricing <https://www.undoc.org>

⁸ [2019] 3 Zhang v R 648 p 659

⁹ Section 4(1) (b) of the Sentencing and Penalties Act 2009

(e)Methamphetamine has been linked to deaths both in New Zealand and overseas.

(f)There is a high physical and psychological dependence potential.

16. Apart from those, it is widely believed that the methamphetamine abuse in Fiji is connected to criminal activities and the spread of HIV through shared syringes.

Purpose of the Sentence

17. Lengthy incarcerations are an effective deterrent both for the individual offender and others who might be like-minded¹⁰. In the context of large-scale methamphetamine offending like this, a particularly relevant purpose in sentencing decisions would be deterrence, especially general deterrence. Denunciation and the protection of the community should also be factored into. The Court must come down hard on drug offenders to denounce the offence.¹¹ A clear message must be sent to our society and to the international community that Fiji will never tolerate such offences¹².
18. Rehabilitation¹³ would be relevant only for small players who were compelled to commit the offence due to poverty. There was no suggestion that any one of the offenders was a user or an addict, and accordingly, rehabilitation on that account will not be a relevant factor in this sentence.

Maximum Sentence and Current Sentencing Practice.

19. The offences of importation and possession of illicit drugs are serious. Each offence described in Section 5(a) and 5(b) of the IDCA carries a maximum penalty of life imprisonment or a fine of \$1 million. The IDCA does not distinguish between different classes of drugs. Nor does it differentiate between various types of offending. All the offending verbs or offending actions described in Section 5(1) ‘Supplies’, ‘possesses’, ‘manufactures’ and ‘cultivates’ are treated equally¹⁴.

¹⁰ Section 4(1) (c) of the Sentencing and Penalties Act 2009

¹¹ Section 4(1) (e) of the Sentencing and Penalties Act 2009

¹² Section 4(1) (b) of the Sentencing and Penalties Act 2009

¹³ Section 4(1) (d) of the Sentencing and Penalties Act 2009

¹⁴ *Sulua v State* [2012] FJCA 33 (31 May 2012)]

20. The lack of guidance in the sentencing provision and its indiscriminate application to all types of offences and all types of drugs had been problematic to the sentencing Courts in Fiji¹⁵. To remedy this situation, the apex Courts have classified the drugs into two groups based on their potential harm and articulated two guideline judgments for sentencing courts, one for soft drugs like marijuana¹⁶ and the other for hard drugs like heroin, cocaine and methamphetamine¹⁷.
21. Methamphetamine sentencing is currently governed by the sentencing guidelines set by the Court of Appeal in *Abourizk v State*¹⁸ (Abourizk Guidelines). These guidelines would apply across all acts identified under sections 5(a) and 5(b) of the Illicit Drugs Control Act 2004, subject to relevant provisions of law, mitigating and aggravating circumstances and sentencing discretion in individual cases.
- Category 01: - Up to 05g - 02 ½ years to 04 ½ years' imprisonment.
Category 02: - More than 05g up to 250g - 03 ½ years to 10 years' imprisonment.
Category 03:- More than 250g up to 500g - 09 years to 16 years' imprisonment.
Category 04:- More than 500g up to 01kg - 15 years to 22 years' imprisonment.
Category 05 - More than 01kg - 20 years to life imprisonment.
22. This categorisation is purely based on quantity, and it assumes that the purity of the drug is 100%¹⁹. Category 5 applies to offending where the quantity of the drugs exceeds 1 kg and specifies that an appropriate starting point will generally range from 20 years to life imprisonment. In the present case, the quantity exceeds 1kg, and the average methamphetamine percentage exceeds 80%. Therefore, each offender falls into Category 5 as each of them was found to be in possession of the entire consignment of methamphetamine at some stage.
23. There can be no doubt that, in sentencing methamphetamine offending, quantity should remain the main factor and important consideration in fixing culpability and thus the

¹⁵ See: *Emori Dibi v State* Criminal Appeal No. HAA 96 of 2017 In re Koroï et al HAR002-006.2012 (20 April), *State v Nabenu* [2018] FJHC 539; HAA10.2018 (25 June 2018)].

¹⁶ *Kaitani v State* [2024] FJSC 50 (29 October 2024)

¹⁷ *Abourizk v State* [2019] FJCA 98; AAU0054.2016 (7 June 2019)

¹⁸ At [145] [2019] FJCA 98; AAU0054.2016 (7 June 2019)

¹⁹ Zhang guidelines are premised on 60% purity

stage one sentence starting point due to the social harm done by the drug and the illicit gains made therefrom.

24. However, in this case, there is a huge difference in culpability amongst the offenders in terms of the role each of them had played. The culpability of a person who helped unload the containers for a small payment is minimal compared to that of a person who imported a million-dollar worth of methamphetamine into the country with the full knowledge of its consequences. Therefore, the strict application of the *Abourizk* Guidelines is likely to produce unjust results and would be obnoxious to the proportionality principle entrenched in the Constitution²⁰. Due regard to the role and other aspects of the offence enables the Court to properly assess the seriousness of the conduct and the criminality involved, and thereby the culpability inherent in the offending²¹.
25. The other difficulty in the application of the *Abourizk* Guidelines to this case is its lack of guidance on how a sentencing Court should pick the starting point within a particular tariff band. For example, the range of Category 5 is so wide that, if it is assumed that the average life expectancy of a Fijian Citizen is 70 years²², it leaves the sentencer with a wide discretion to pick a starting point within a range of 50 years. The sentencer, without guidance, is likely to fall into the error of double-counting if a higher starting point is picked without specifying the basis upon which it was picked.
26. Apparently, to avoid this problem, the Court of Appeal in *Koroivuki v State*²³ proposed that, as a matter of good practice, the starting point should be picked from the lower or middle range of the tariff²⁴. The Supreme Court has endorsed this practice as it is likely to minimise the risk of the sentencer falling into the error of double-counting²⁵.
27. However, this practice is not always pragmatic or appropriate, especially in serious and complex drug cases akin to the one before this Court. The Supreme Court recently observed that this practice should not be seen as a rigid rule and endorsed a higher starting point picked by the sentencing judge, disregarding the *Koroivuki* dictum²⁶.

²⁰ Section 11(1) of the Constitution

²¹ *Zhang v R* — [2019] 3 NZLR 648

²² WHO <https://data.who.int>

²³ [2023] FJCA 15

²⁴ [2013] FJCA 15

²⁵ *Nadan v State* [2019] FJSC 29 (31 October 2019); *Senilolokula v State* [2018] FJSC 5 (26 April 2018)

²⁶ *Nikolic v State* AAU 024 of 2019 (29 May 2025)

28. Recently, the Supreme Court in *Kaitani*²⁷ referred to *Jone Seru*²⁸ and emphasised the role-based approach in determining culpability and identified three roles, ‘leading’, ‘significant’ and ‘lesser’ in determining culpability in *cannabis sativa* cases. However, the Court does not specifically guide the sentencing courts on how to select the starting point in hard drug cases.
29. Then what are the proper considerations other than the quantity that should stimulate the sentencing courts in selecting the starting point in hard drug cases of this magnitude? In the absence of proper guidance in Fiji, I would seek guidance from the New Zealand Methamphetamine sentencing guidelines. Before the *Abourizk* Guidelines came into being, the Courts in Fiji sought guidance from New Zealand jurisprudence and adopted the New Zealand methamphetamine guidelines articulated in *R v Fatu*²⁹ to sentence the offenders in serious hard drug cases³⁰.
30. Fiji is dealing with the problem of hard drugs in its own manner, and the sentences must be imposed considering the Fiji situation. However, what other jurisdictions, particularly New Zealand, do to deal with such offending will certainly be helpful³¹
31. In 2019, following a comprehensive inquiry, the New Zealand Court of Appeal issued new methamphetamine sentencing guidelines in *R v Zhang*³². These guidelines replaced those issued by the Court of Appeal 14 years earlier in *R v Fatu*. The Court in *Zhang* made various adjustments to the methamphetamine sentencing practice that had developed under *Fatu*. However, the Court decided to retain the *Fatu* quantity-based framework as a “reasonable proxy both for the social harm done by the drug and the illicit gains made from making, importing and selling it”.
32. The following comparative table demonstrates the change:

	Former: <i>Fatu</i>	New: <i>Zhang</i>	
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²⁷ [2024] FJSC 50 (29 October 2024)

²⁸ Criminal Appeal No. AAU 115 of 2017 (25 May 2023)

²⁹ [2006] 2 NZLR 72 (CA)

³⁰ [P 11] *Nikolic v State* [2025] FJCA 101; AAU024.2019 (29 May 2025)

³¹ *Supra* 16 [p 21]

³² *Zhang v R* [2019] 3 NZLR 648

Band one: < 5 grams	2–4.5 years	Community to 4 years	
Band two: < 250 grams	3–11 years	2–9 years	
Band three: < 500 grams	8–15 years	6–12 years	
Band four:	> 500 grams 10 years to life	< 2 kilograms 8–16 years	
(New) Band five:	N/A	> 2 kilograms 10 years to life	

33. Those who willingly participate in commercial level dealing in methamphetamine will gain little from *Zhang* guidelines. The benefits lie more for those who take a lesser role in methamphetamine offending, and particularly those who do so as a result of vulnerability. The Court introduced three major changes and singled out a desire to step back from the relative rigidity of the *Fatu* framework, which produced unjust sentences for offenders who fell into Band One. First, the bands would no longer differentiate, as *Fatu* had, between supply, importation and manufacturing. The Court reasoned that since the maximum penalty for each offence and the harm caused are identical, each offence category should also be treated as equally serious in principle. (This reasoning is in agreement with the rationale underlined in Fiji’s IDCA, as was discussed in *Sulua*³³) Second, sentencers were encouraged to consider “more flexible sentencing solutions”, particularly in band one offending.
34. The third change is the most important one that justifies this Court in seeking guidance to select the starting point for the offenders in this case. In fixing culpability, *Zhang* placed a great deal more emphasis on the role of the offender in the offending. It was, the Court noted, “an important consideration” alongside quantum in assessing overall culpability³⁴. Following the lead of the United Kingdom Sentencing Council³⁵, the Court subdivided each of the five bands into role-based categories: “lesser” belonging to the

³³ Supra[16] see Paragraph 14

³⁴ Zhang, at [118]

³⁵ <www.sentencingcouncil.org.uk>

bottom of the band, “significant” in the mid-range and “leading” at the upper end³⁶. The Court also entertained the possibility that the role could take a starting point outside the band dictated by quantity alone. The Court set out the relevant role indicia in these terms.

35. In 2022, the Supreme Court of New Zealand in *Berkland v R*³⁷ endorsed the *Zhang* guidelines with slight modifications, specifically in defining the “significant role” and updated the role profile table as follows:

Updated Role Profile Table		
Lesser	Significant	Leading
1. Performs a limited function under direction; 2. engaged by pressure, coercion, intimidation; 3. involvement through naivety or exploitation; 4. motivated solely or primarily by own addition; 5. little or no actual or expected financial gain; 6. paid in drugs to feed own addiction or cash significantly disproportionate to quantity of drugs or risks involved; 7. no influence on those above in a chain; 8. little, if any, awareness or understanding of the scale of operation; and/or 9. if own operation, solely or primarily for own or joint use on non-commercial basis.	1. Management function in operation or chain where, under direction from a leader, this entails directing others in the operation whether by pressure, influence, intimidation or reward; 2. operational function, whether operating alone or with others; 3. motivated solely or primarily by financial or other advantage; 4. actual or expected financial or other advantage, especially where commensurate with role and risk assumed; and/or 5. some awareness and understanding of the scale of the operation.	1. Directing or organizing buying and selling on a commercial scale; 2. substantial links to, and influence on, others in a chain; 3. close links to original source; 4. expectation of substantial financial gain; 5. uses business as cover; and/or 6. abuses a position of trust or responsibility.

36. Sentencing is an individualized process and must achieve justice in individual cases. That requires flexibility and discretion in crafting a sentence notwithstanding the guidelines expressed by the Court of Appeal. However, I am mindful of Section 4(2)(b) of the SPA, which requires the courts to regard the current sentencing practice and the terms of any applicable guideline judgment.

37. The *Abourizk* guidelines do not take away the sentencing discretion of the sentencing court to arrive at a just sentence that fits the offence and the offender³⁸. Therefore, I

³⁶ Zhang, at [126]

³⁷[2022] 1 NZLR 509 at 538

³⁸ See: [145] [2019] FJCA 98; AAU0054.2016 (7 June 2019)

would take the role played by each offender into account as an important consideration in selecting the starting point at stage one. I propose to adopt the role profile table laid down by the Court of Appeal in *Zhang* as modified by the Supreme Court of New Zealand in *Berkland* to select starting points for the offenders in this case.

38. Based on the role played, I would identify Justin Ho, David Heritage and Jale Aukerea as the leaders in the drug operation. Louie Logaivau and Sakiusa Tuva played a significant role while Ratu Aporosa, Ratu Osea, Cathy Tuirabe and Viliame Colawaliku played lesser roles.

Sentence for Justin Ho

Starting Point

39. Justin Ho, you were convicted on Counts 1, 2, 3, 4 and 10 which included, importation and possession of 4.2 tonnes of methamphetamine and possession of property suspected of being proceeds of crime³⁹. Since all the offences were committed in one transaction, I would prefer to pass an aggregate sentence for all the offences you have committed.
40. This Court, in its judgment, identified you as the mastermind and the leader of the whole drug operation in Fiji. It was proved that you took instructions and funds from Australian-based drug kingpin Sam Amine and managed the drug operation from his warehouse in Denarau. You paid \$ 30,000.00 to David Heritage to import the methamphetamine consignment into Fiji. You discussed the plan for hours with a foreigner and gave money and the coordinates of the superyacht to David Heritage to import the drugs.
41. When the consignment arrived in Fiji, you photographed it and instructed Louie to take the stock. Louie and Lepani, who were on your payroll, moved the drugs on your instructions to Sam Amine's warehouse, which was under your control. You drove a hired truck to the warehouse premises and loaded the entire consignment on the truck. You instructed Ratu Aporosa to drive the truck to Motorex. From Motorex, NR (name suppressed) transported the consignment to Legalega.

³⁹ Maximum sentence for this offence is a fine not exceeding \$12,000 or imprisonment for a term not exceeding 2 years, or both. There is no set tariff for this offence

42. Your Counsel submitted that your involvement ended at Motorex. However, the Court found you to be the manager of the overall operation even after the consignment left Motorex. This conclusion was based on NR's evidence that the drugs belonged to you and your failed attempt to flee Fiji with Jale Aukerea who oversaw the movement and management of the drugs from Motorex to Maqalevu.
43. I assigned the leadership role to you because you are the leader: You organised and directed the commercial-scale operation involving the movement of the drugs into Fiji and within Fiji. You maintained substantial links to the foreign drug cartel and wielded greater influence over the others in the chain. You received funds and expected profits from the business. You spent lavishly and paid the workers modest payments, highly disproportionate to the risk they took and the profit you expected. Upon detection, you led the getaway team, taking the black money you earned.
44. The role you played, the enormity, the purity and the street value of the methamphetamine consignment justify a higher starting point towards the upper end of the tariff⁴⁰. I would pick 50 years' imprisonment as the starting point of your sentence.

Aggravating Circumstances

45. It was a highly sophisticated drug-trafficking operation planned over time with foreign drug syndicates in which a superyacht, satellite phones, and encrypted communication apps were used.
46. Your Counsel informed that you were a public-spirited person of good character. It was revealed at the trial that you were active in drug trafficking even before you committed these offences⁴¹. NR (name suppressed) said that you employed him as a drug courier even before this consignment was brought into Fiji.
47. You, in July 2022, opened a business in Denarau at the warehouse owned by Sam Amine, the drug kingpin based in Australia. The business comprised a barber shop, café and a carwash. Although located in an industrial zone, you made the business appear legitimate

⁴⁰ Under *Zhang*, those who are primary offenders can expect starting towards the higher end of the relevant band with the converse applying to those whose role is less significant

⁴¹ When good character evidence is placed, the Court is entitled to look at counter evidence for sentencing purposes and not to punish for uncharged past offending.

to the public, especially by inviting a Cabinet Minister to ceremonially open it. The Minister applauded you for venturing into an investment of \$40,000 to establish an impressive space to provide diverse services to the Denarau Community.⁴²

48. The Minister's presence and his speech at the opening came as a blessing for you to carry out the undercover business later in the same premises. Louie described what inspired him to join your business. The opening ceremony made Louie believe that you were a legitimate businessman. Soon, the front businesses were not doing well and getting closed one after the other, but the underground business was about to flourish when you stored the consignment of methamphetamine in the same warehouse.
49. It was submitted that you cooperated with the authorities. I am not at all convinced. Your conduct rather demonstrated a lack of remorse and a desire to block the wheels of justice from turning. When the drug stores at Legalega and Maqalevu were raided, you took tainted money and fled to Cobia Island and attempted to flee Fiji with two other accomplices. You fought hard for bail, and upon being released on bail, you attempted to flee the jurisdiction in a yacht to evade the trial while it was in progress.
50. You did not take responsibility and remained silent for the first three days of the interview. You made vague admissions at the end when you realised that you had no other options. You came up with a bogus defence and blamed others. You made every attempt to delay the trial when you realised that the Prosecution had a strong case. When all the delaying tactics failed, you blamed the Court and filed baseless recusal applications, first against the judge and then against the Prosecutor.
51. You made a false representation to this Court that you had no previous convictions. When the accuracy of this claim was questioned by the Court, your Counsel admitted that you pleaded guilty to a charge of providing False or Misleading Documents to get some detained imported prohibited goods released from the Customs. In that case, you were sentenced to 9 months' imprisonment suspended for three years⁴³.

⁴² The photograph of the opening and the minister's speech published at <https://www.mcttt.gov.fj/remarks-by-the-minister-for-commerce-trade-tourism-and-transport> was tendered in evidence by Louie Logaivau.

⁴³ FICAC v Ho [2024] FJMC (27 September 2024)

52. Your counsel submitted that you cooperated with the court process by not challenging the analyst's report, purity test results and the chain of custody. I do not think you cooperated at all. Having made admissions at the caution interview, you still wanted to have the drugs tested by a foreign analyst and raised objections to the State's application to destroy the drugs, which posed security and health risks. At the trial, you changed your position and informed that the analyst's report and the chain of custody will not be challenged.
53. It was submitted that, as a born Catholic, you were actively engaged in community services and church work. The Minister's speech at the opening⁴⁴ shows that you have provided employment opportunities to 10 Fijian youths. However, you opened the business as a cover to carry out illegal activities and exposed the youths to the drug trade, putting their lives at risk. You have breached the trust reposed in you by your employees.
54. In mitigation, it was submitted that you are young, 34 years of age, and looking after your sickly father. Even for a most serious drug offender, his or her personal circumstances do matter. But I do not find any mitigating features in your personal circumstances. You have two brothers and a stepsister. They can take care of your father in your absence. You had a promising track record in soccer and squash. At one time, you were Fiji's No. 1 squash player under 9, 12 and 17 categories and were named Fiji's No.1 squash player. Unfortunately, you decided to ruin not only your bright career but also that of the youths who worked for you. Your status as a sports celebrity is not going to help you in any way, as the business you ventured into had the potential of destroying Fiji's entire young generation. You abused your position as a sports celebrity.
55. Having considered all these factors, I have decided to impose life imprisonment on you. Life imprisonment is prescribed by the IDCA and by the guideline judgment for anyone who is in possession of or imports illicit drugs exceeding 1 kilogram. You imported and possessed more than 4000 kilograms of methamphetamine. No drug offender has ever faced life imprisonment in this jurisdiction. In New Zealand, a few methamphetamine

⁴⁴ Supra 45

offenders had gone to jail for life under *Zhang* sentencing regime for dealing with comparatively much less quantities, the latest being this year⁴⁵.

56. In *R v Chen*,⁴⁶ an identical New Zealand case, the Court of Appeal upheld sentences of life imprisonment on two offenders in relation to a lead charge of importing 96 kilograms of methamphetamine. The two offenders were leading players in the drug syndicate, though the head of the syndicate was based overseas. In relation to the two other offenders in that case who had been charged with possession for supply of 40 kilograms of methamphetamine, the Court of Appeal observed that life imprisonment would have been within range.
57. This is by far the largest ever drug bust in the history of Pacific, and perhaps it would remain to be the largest for many more years to come. *Zhang* indicated that there had been a massive increase in aggregate quantities seized in New Zealand, from a total of 13 kilograms in 2012 to 923 kilograms by 2016⁴⁷. When compared to those quantities, the methamphetamine quantity in this case is significantly higher.
58. Although you have spent nearly 14 months in remand, I am unable to give any discount on that account for two reasons⁴⁸. First, you have been sentenced to life imprisonment. Second, you breached bail conditions and tried to escape whilst on bail to prevent the course of justice. However, your remand period is considered in fixing the non-parole period.

Non-Parole Period

59. Since your imprisonment term exceeds two years, I have no option but to impose a non-parole period. According to the recent Court of Appeal decision in *Nikolic*⁴⁹, I am not bound to give reasons to justify the length of the non-parole period. However, considering the previous Judgments of the Court of Appeal⁵⁰ and the Supreme Court⁵¹, I think I should record the reasons for the non-parole period.

⁴⁵ *The King v F* [2025] NZHC 651; *The King v Xavier Valent* [2023] NZHC 1432

⁴⁶ [2009] NZCA 445, [2010] 2NZLR158

⁴⁷ *Zhang* at [81]

⁴⁸ The SPA gives the Court a discretion to disregard the remand period for good reasons see Section 24

⁴⁹ [2025] FJCA 101 (29 May 2025)

⁵⁰ [2018] FLR 961

⁵¹ *Nacani Timo v State* [2019] CAV 22/18

60. As I have already emphasised, rehabilitation receives less consideration for primary drug offenders of this magnitude⁵². Fiji is increasingly becoming a hot spot for drug trafficking, and therefore, general and specific deterrence must be the primary considerations in setting the non-parole period. Denunciation and public protection are also important considerations. You are 34 years old and still young. Having considered all competing sentencing proposals of the SPA, and the remand period, I impose a non-parole period of 30 years. Thus, you are eligible for parole after serving 30 years in the correctional facility.

Sentence for David Heritage

61. Heritage, you are convicted of being in possession and importation of 4.1 tonnes of methamphetamine on counts 1 and 2. Both offences were committed in one transaction. Therefore, I would impose an aggregate sentence for both offences you have committed.
62. I do not agree with your Counsel that you played a lesser role. You played a leading role in the drug operation, albeit not to the extent Justin Ho played. Most of the factors I considered in selecting the starting point for Justin Ho are equally applicable to you.
63. You planned with Sam Amine and Justin Ho and received their instructions and money to facilitate the importation of the drugs into Fiji. You received \$ 30,000.00 in advance and expected \$ 2 million to complete the job. You hired a barge and the crew and went twice to the sea to catch the superyacht. You made payments to the barge and lavishly spent on the crew members. When the consignment was offloaded at Fantasy Island, you transported it to the David Marine Office owned by you and facilitated the storage. You were fully aware of the scale of the operation. However, there was no evidence that you took any part in the drug operation after the consignment left your office in Denarau.
64. I would identify you as a leader because you planned, organised and directed the shipment of the drugs into Fiji. You received coordinates of the superyacht and maintained substantial links to the foreign drug cartel. You wielded a considerable

⁵² Zhang at [18]

influence over the others in the chain. You received, benefited and expected profits from the drug trade.

65. The role you played, the enormity, the purity and the street value of the methamphetamine consignment justify a higher starting point towards the middle range of the tariff. I would pick 45 years' imprisonment as the starting point of your sentence.

Aggravating / Mitigating Factors

66. You coordinated a sophisticated and well-planned operation to import the drugs into Fiji. The importation involved a superyacht, foreigners, satellite phones and smartphones with encrypted apps. You exposed your brother-in-law Apenai to a risk when you sent him to the sea to bring in the drugs into Fiji. You paid the skipper of the barge generously and told him that you have links to the police and the army, apparently to discourage him from reporting to the police.
67. Your Counsel submitted that you are a genuine businessman. I am not convinced. You own several vehicles, which your counsel said are still on hire purchase. I accept you have some qualifications to be a marine engineer, but I doubt your expertise has genuinely contributed to amassing so many assets in a short period. I do not doubt that you ran the David Marine Repairs as a front where you entertained the clients from the back door. You profited from the operation and used the tainted money to buy a generator and other equipment. You rented two more new expensive premises shortly before the drugs were brought into Fiji. I add 13 years for the aggravating circumstances to arrive at a sentence of 58 years' imprisonment.
68. You are 45 years of age and married with five children. You are the sole breadwinner of the family. However, your personal circumstances do not persuade me to deduct your sentence significantly. Unlike Justin Ho, you were very cooperative with the police investigators. When the police arrived at your doorstep, you already knew why they were there. You cooperated and admitted the offences from the beginning of the caution interview and sought mercy for the stupid acts you committed. At the trial, however, you changed your mind and challenged the Prosecution. You are a first offender. You seek the mercy of this Court. You were in remand for 7 months. Having considered the remand

period and mitigating factors, I deduct 3 years to arrive at an aggregate sentence of 55 years imprisonment for both offences you committed.

Non-Parole Period

69. Rehabilitation is given less consideration for primary drug offenders of this magnitude. Fiji is increasingly becoming a hot spot for drug trafficking, and therefore, the general and specific deterrence must be the primary considerations in setting the non-parole period. Denunciation and public protection are also important factors to be considered. You are 45 years old. Having considered all the competing sentencing proposals described in the SPA, I impose a non-parole period of 25 years. Thus, you are eligible for parole after serving 25 years in the correctional facility.

Sentence for Jale Aukerea

70. Aukerea, you were convicted on Counts 8, 9 and 12, which included being in possession of 4.2 tonnes of methamphetamine and property suspected of being proceeds of crime. Since all the offences were committed in one transaction, I would pass an aggregate sentence for all the offences you have committed.
71. You also played a leading role and managed the movement and storage of the drugs from Motorex to Maqalevu. You instructed and financed your cousin Sakiusa Tuva to organise logistics, storage and transport. It was on your instructions that the consignment was transported from Motorex to the house at Legalega and then to Maqalevu. You provided funds to buy a van to transport drugs and rented a house at Maqalevu for storage. Sakiusa Tuva and Viliame Colowaliku were on your payroll. You did the drug business for profits.
72. Having considered the role you played, the enormity, the purity and the street value of the methamphetamine consignment, I would pick 40 years imprisonment as the starting point of your sentence towards the middle range of the tariff.

Aggravating / Mitigating Circumstances

73. You managed the operation using a sophisticated encrypted communication app to avoid detection. Your admissions in the caution statement show that you received instructions and funds from a foreign source, and you planned the operation with foreign drug syndicates. You came from Australia and started a kava bar called 'Kava Kings' at Votualevu as a front to carry out a clandestine drug business.
74. I have no doubt Sakiusa and Cathy packed Kava and methamphetamine under the label 'Kadavu Kava' to be sold at the local market. When the police raids were conducted, you took tainted money and fled to Cobia Island with Justin Ho and Louie and attempted to flee Fiji to prevent the course of justice. You exposed Sakiusa and the youths who worked under you to the illicit drug trade and put their lives at risk. For these aggravating factors, I add 13 years to the starting point to arrive at an interim sentence of 53 years' imprisonment.
75. Aukerea, you are 41 years of age and in a de facto relationship. You are a father of 5 children. You are the sole breadwinner of your family. It was submitted that you have provided employment to 10-15 people. However, you used the employees for the drug trade, and it will add nothing to mitigation. You have nil previous convictions. You have not shown any remorse for the illegal activities. You were in remand for approximately one year. I deduct 3 years for mitigation. Having considered the remand period and the mitigating factors, I arrive at an aggregate imprisonment term of 50 years.

Non-Parole Period

76. Rehabilitation is given less consideration for primary drug offenders of this magnitude. Fiji is increasingly becoming a hot spot for drug trafficking, and therefore, general and specific deterrence must be the primary considerations in setting the non-parole period. Denunciation and public protection are also important factors to be considered. Having considered all the competing sentencing purposes described in the SPA, I impose a non-parole period of 25 years. Thus, you are eligible for parole after serving 25 years in the correctional facility.

Sentence for Louie Logaivau

77. Logaivau, you were convicted on Counts 2, 3, 4, 5 and 6, being in possession and transfer of 4.2 tonnes of methamphetamine. Since all the offences were committed in one transaction, I would pass an aggregate sentence for all the offences you have committed.
78. You also played a 'significant role' in the operation. You are the trusted right-hand man of Justin Ho and a step below the leader in culpability. You should not, however, be located at the upper end of a significant role category. You played a mid-range significant role doing a managerial level function to transfer, process (loading/unloading, unpacking, stock taking) and to store the drugs under the direction of Justin Ho. You closely supervised and directed Lepani and Ratu Aporosa with some awareness and understanding of the scale of the operation.
79. You bore disproportionate risk when compared to the reward. You had received only \$500.00 apart from the other facilities provided by Justin Ho. It seemed that your participation in the offence was rather driven by loyalty towards the boss than profit. Given the absence of any genuine operational autonomy or managerial functions and the limited nature of the financial gains compared to the expected overall profitability of the operation, I would adopt a starting point for you from the bottom range of the tariff. Having considered the role you played, the enormity, the purity and the street value of the methamphetamine consignment, I would pick 25 years imprisonment as the starting point of your sentence.
80. It is aggravating that you failed in your civic duty to report the illegal activities to the police. When the police raids were conducted, you fled to Cobia Island with Justin Ho and Jale Aukerea and attempted to flee Fiji to avoid the course of justice. I add 3 years for aggravating features to arrive at an interim sentence of 28 years' imprisonment.
81. You are 21 years of age, single and a father of one child from your previous relationship. After graduating from Natabua High College, you worked in a Bible school before joining Justin Ho's car wash business in 2022, believing that he is a genuine businessman. Even after realising that Justin Ho's business was not legitimate, you willingly participated in his illegal activities while totally depending on him for your livelihood.

82. I can understand your predicament. You have no previous convictions. You had been in remand for nearly 12 months. Having considered the mitigating circumstances and the remand period, I deduct 3 years and impose an aggregate sentence of 25 years' imprisonment.

Non-Parole Period

83. You are young and have a greater rehabilitation potential. To balance your rehabilitation with other sentencing purposes, especially deterrence, I impose a non-parole period of 18 years.

Sentence for Sakiusa Tuva

84. Tuva, you were convicted on Counts 7, 8 and 9 for being in possession and transferring 4.2 tonnes of methamphetamine. You pleaded guilty to the counts on your own free will. Since you committed all these offences in one transaction, I would impose an aggregate sentence for all three offences you have committed.
85. You also played a 'significant role' in the operation. You are a trusted associate and handyman of Jale Aukerea and a step below the leader in culpability. You received money and instructions from Jale for the services you rendered at the kava bar. You played an upper-range significant role doing a managerial level function of transferring drugs, procuring storage/ vehicles and recruiting people under the direction and close supervision of Jale. You acted with some awareness and understanding of the scale of the operation and entertained a degree of operational autonomy in managerial functions. I place you at the upper end of 'significant' role category. You unpacked and prepared assorted packets of methamphetamine and kava with Cathy, apparently to be sold in the local market.
86. However, you bore disproportionate risk when compared to the reward, perhaps because of blind loyalty towards your cousin. Having considered the role you played, the enormity, the purity and the street value of the methamphetamine consignment, I would pick 28 years imprisonment as the starting point of your sentence.

87. It is aggravating that you failed in your civic duty to report the illegal activities to the police. You exposed the youths to a great risk when you recruited them for an illegal activity. You benefited from the ill-gotten money. I add three years for aggravating features to arrive at 30 years imprisonment in the interim.
88. I considered your personal circumstances. You are 31 years of age, married with 3 children. Prior to being entangled in the underworld drug business, you worked faithfully as a carpenter. You could not resist your cousin Jale's request, which came with an attractive package which you saw as a great opportunity to upgrade your living standard and help your sickly father, who was undergoing dialysis at Aspen.
89. You cooperated with the police and the Prosecution to solve one of the devastating crimes committed in this jurisdiction. You gave the location of the Maqalevu methamphetamine storage that led to the raid and the arrest of Jale Aukerea. Although not given immunity or any incentive, you chose to give evidence for the State to tell the truth. I accept you showed genuine remorse by pleading guilty to the charges, albeit not at the first available opportunity. It also saved the Court's time and resources. This was not because of advice or prompting by Counsel but by your own conviction that you should inform the Court of the truth and accept the responsibility of your own actions.
90. I am informed by your Counsel that after being bailed for this matter, you took progressive steps to rehabilitate yourself by helping to initiate an awareness program called 'Say No to Drugs' in your community in Votualevu. You have no previous convictions. You had been in remand for nearly 7 months. Having considered the mitigating circumstances and the remand period, I deduct 5 years to impose an aggregate sentence of 25 years' imprisonment.
91. You are young and have a greater potential for rehabilitation. To balance your rehabilitation potential with other sentencing purposes, especially deterrence, I impose a non-parole period of 18 years.

Sentence for Ratu Aporosa

92. Aporosa, you are convicted only on Count 5 for being in possession/ transferring of 4.2 tonnes of methamphetamine from Denarau to Motorex. It was proved that you drove the truck with knowledge, and you had the intention to possess the methamphetamine consignment you transported. I accept that you performed a limited function under direction, which I put your offence under a lesser culpability level. You were paid only \$200, and you expected no financial gain other than that. You had no influence on those above in the chain and had little awareness of the scale of operation.
93. The Court should conduct an individualised assessment rather than rigidly applying the *Abourizk* Guidelines. To ensure the proportionality principle, the offenders whose role falls into the 'lesser' culpability category should get comparatively lenient sentences. Having considered the limited role you played, the enormity, the purity and the street value of the methamphetamine consignment, I would pick 18 years imprisonment as the starting point of your sentence below *Abourizk* tariff band 5.
94. You are 45 years of age, married with two children. You are a part-time driver by profession and the sole breadwinner of the family. You have no previous convictions and have maintained a clear record. This may have been the reason why you were chosen to drive the truck. You grew up in Australia to where your family migrated. Your ill-advised decision to drive the truck spoiled your plan to return to Australia. You have been in remand for 7 months. I deduct 4 years for mitigation and remand period to arrive at a sentence of 14 years' imprisonment. To balance your rehabilitation potential with other sentencing purposes, especially deterrence, I impose a non-parole period of 12 years.

Sentence for Cathy Tuirabe

95. Tuirabe, you are convicted only on Count 8 for being in possession of 4.2 tonnes of methamphetamine at Legalega. You admitted occupying the house at Legalega with Ratu Osea with the knowledge and intention to possess the methamphetamine consignment. You performed limited functions under the direction of Sakiusa Tuva. You assisted in repacking the drugs into small, sealed containers and guarded the premises for which you were paid only \$ 100-\$ 200. You expected no financial gain other than that. You did not

influence those above in the chain and had little awareness of the scale of operation. I put your offence into the 'lesser' role culpability level.

96. Having considered the limited role you played, the enormity, the purity and the street value of the methamphetamine consignment, I would pick 20 years imprisonment as the starting point of your sentence from the bottom end of *Abourizk* tariff Category 5. When the police raided the house, you fled and failed to report to the police.
97. You are 31 years of age and unemployed. You have no previous convictions and have maintained a clear record. You decided to join Sakiusa Tuva, your neighbour, to make a living due to extreme poverty. You cooperated with the police and admitted to the offence as soon as you were arrested. You assisted the Prosecution in solving one of the devastating crimes committed in this jurisdiction. Although not given immunity or any incentive, you chose to give evidence for the State. I accept you showed genuine remorse by pleading guilty to the charges, albeit not at the first available opportunity. It also saved the Court's time and resources. You accepted the responsibility of your own wrongdoing, and you seek mercy from this Court.
98. You have been in remand for 9 months. I deduct 5 years for mitigation and remand period to arrive at a sentence of 15 years imprisonment. To balance your rehabilitation with other sentencing purposes, especially deterrence, I impose a non-parole period of 12 years.

Sentence for Ratu Osea

99. Osea, you are convicted on Count 8 for being in possession of 4.2 tonnes of methamphetamine at Legalega. It was proved that you occupied the house at Legalega with Cathy Tuirabe with the knowledge and intention to possess the methamphetamine consignment. You operated under 'Bro-Bro' codename and guarded the house under the direction of Sakiusa Tuva. You also assisted in loading the containers. You were paid only \$ 100-\$ 200. You expected no financial gain other than that. You had no influence on those above in the chain and had little awareness of the scale of operation. I put your offence under the 'lesser' culpability level.

100. Having considered the limited role you played, the enormity, the purity and the street value of the methamphetamine consignment, I would pick 20 years imprisonment as the starting point of your sentence from the bottom end of *Abourizk* tariff band 5.
101. You are 30 years of age and unemployed. You are married with five children. You decided to join your college friend Sakiusa Tuva to make a living due to extreme poverty. You studied Information Technology at FNU and completed 4 Units when you were forced to give up due to financial difficulties. You have three previous convictions, and two of which are drug related. You cooperated with police investigations and sought the mercy of this Court.
102. You had been in remand for 7 months. I deduct 3 years for mitigation and remand period to arrive at a sentence of 17 years' imprisonment. To balance your rehabilitation potential with other sentencing purposes, especially deterrence, I impose a non-parole period of 13 years.

Sentence for Viliame Colowaliku

103. Colowaliku, you were convicted on Count 8 for being in possession of 4.2 tonnes of methamphetamine at Legalega. It was proved that you unloaded the containers with the knowledge and intention to possess the methamphetamine consignment under the direction of Sakiusa Tuva, who was your friend. You expected no financial gain other than what you received from Sakiusa Tuva. You had no influence on those above in the chain and had little awareness of the scale of operation. I put your offence under a lesser culpability level.
104. Having considered the limited role you played, the enormity, the purity and the street value of the methamphetamine consignment, I would pick 18 years imprisonment as the starting point of your sentence below *Abourizk* tariff band 5.
105. You are 35 years of age and unemployed. You are a single parent with three children and the sole breadwinner of the family. You decided to join Sakiusa Tuva to make a living due to extreme poverty. You have no previous convictions and have maintained a clear record. You cooperated with the police in their investigations.

106. You have been in remand for 7 months. I deduct 3 years for mitigation and remand period to arrive at a sentence of 15 years imprisonment. To balance your rehabilitation potential with other sentencing purposes, especially deterrence, I impose a non-parole period of 12 years.

107. **Summary**

Following sentences are imposed:

1. JUSTIN STEVEN MASHI HO- life imprisonment with a non- parole period of 30 years.
2. DAVID OTTO HERITAGE – 55 years’ imprisonment with a non-parole period of 25 years.
3. LOUIE FRANK PENIJAMINI LOGAIVAU- 25 years’ imprisonment with a non-parole period of 18 years.
4. RATU APOROSA DAVELEVU - 14 years’ imprisonment with a non-parole period of 12 years.
5. SAKIUSA TUVA-25 years’ imprisonment with a non-parole period of 18 years.
6. JALE AUKEREA- 50 years’ imprisonment with a non-parole period of 25 years.
7. RATU OSEA NAIVALUNILOTU LEVULA – 17 years’ imprisonment with a non-parole period of 13 years.
8. CATHY TUIRABE - 15 years’ imprisonment with a non-parole period of 12 years.
9. VILIAME COLOWALIKU - 15 years’ imprisonment with a non-parole- period of 12 years.

108. 30 days to appeal to the Court of Appeal.



Aruna Aluthge

Judge

28 August 2025

At Lautoka

Solicitors:

- Office of the Director of Public Prosecution for State
- Iqbal Khan & Associates for 1st Accused
- Legal Aid Commission for 2nd, 5th, 8th and 9th Accused
- Millbrook Hills Law Partners for 3rd Accused
- S. Nand Lawyers for the 4th Accused
- Law Solutions for the 6th Accused
- Law Naivalu for 7th Accused