

**IN THE INDEPENDENT
LEGAL SERVICES COMMISSION**

NO. 010 OF 2012

BETWEEN :

CHIEF REGISTRAR
Applicant

AND:

KALISITO MAISAMOA
Respondent

Applicant : Mr. K Prasad with Mr. A Chand
Respondent : In Person

Dates of Hearing : 12th November 2012

Date of Judgment : 23rd January 2013

JUDGMENT and SENTENCE

1. The Respondent faces 8 counts of unsatisfactory professional conduct in that he is alleged to have appeared in the High Court at Suva on the 17th August 2012 to argue matters on behalf of 6 separate accused persons all from Kadavu, all of whom had been accused of sexual abuse against children on that island.
2. At the hearing of the complaints on the 12th November 2012, the Respondent admitted all eight of the charges and consequently I find that they are established.
3. The simple facts are that on the 17th August 2012, the Respondent appeared in High Court No. 3, Suva, on behalf of Nacolawa & Daveta Solicitors acting for six men accused of sexual crimes against minors in Kadavu. He also made one bail application on behalf of one of the accused.
4. The Respondent was admitted to the legal profession in Fiji on the 18th August 2011 and has been in practice since that date.
5. Section 50(2) of the Legal Practitioners Decree 2009 reads as follows:

"A practitioner shall not be entitled to argue any cause or matter before the Supreme Court, the Fiji Court of Appeal or the High Court (other than in Chambers or before the Registrar except on an originating summons) unless with another practitioner of at least three years' standing in the Fiji Islands until he or she has practiced for a period of at least two years either as a practitioner in the Fiji Islands, or as a

barrister or solicitor in the United Kingdom, the Republic of Ireland, Australia or New Zealand."

6. In mitigation the Respondent submitted that prior to admission to the profession he had a great deal of experience in the Courts of Fiji, having been a Police Prosecutor both in Suva and Rakiraki and even making appearances in the Court of Appeal. He had worked at the Ministry of Health drafting charges and prosecuting offences contravening the Public Health Act.

7. He claims not to have been aware of the terms of Section 50(2) and thought that with his long court experience he could appear in the High Court.

8. The Respondent is 50 years old, married with 5 children. His wife works as a market vendor. He now appears in the High Court accompanied by his principal, Mr. Vilitati Daveta.

9. Ignorance of the terms of section 50(2) does not excuse the offence. In fact all new practitioners should be made aware of all the provisions of the Decree including most importantly these rights of practice and of course the Rules of Professional Conduct and Practice in the Schedule.

10. The Respondent's submission in mitigation is initially attractive, but his prior experience does nothing to protect the consumer public which body is the major interest of the provisions of licensing of practitioners. To be "on top your game" when it comes to prosecuting deviant youth in Ra or in prosecuting the owners of a restaurant failing to keep a healthy kitchen, does not benefit a youth from Kadavu who is looking to defend himself against serious allegation of sexual impropriety and who is desperate to be admitted to bail. The two year restriction on newly admitted barristers is there for a purpose and in the view of the Commission it must be strictly enforced in the interests of public protection.

11. The Respondent submits that all eight offences of professional misconduct were committed on the same day and in respect of multiple accused in the same case with the consequence that it should be regarded as one single transgression. The Commission agrees. Although he purported to argue the case of different accused persons it was in respect of one police file and I therefore regard the misconduct as a single offence and although each charge laid is found established, the penalties handed down will be concurrent for each offence.

ORDERS

1. The Respondent is publicly reprimanded.
2. He is fined the sum of \$1,500 to be paid by 28th February 2013.

JUSTICE PAUL MADIGAN

**COMMISSIONER
23 JANUARY 2013**