

**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**CRIMINAL JURISDICTION**

**CRIMINAL CASE NO. HAC 059(B) OF 2010S**

**STATE**

**VS**

**JOSAIA KOROINAVOSA**

**Counsels** : **Ms. S. Naidu for the State**  
**Mr. N. Sharma for Accused**

**Hearings** : **16<sup>th</sup> and 30<sup>th</sup> April, 2013**

**Sentencing** : **17<sup>th</sup> May, 2013**

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**SENTENCE**

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1. On 16<sup>th</sup> April, 2013, in the presence of your counsel, you appeared on the following information:

**FIRST COUNT**

**Statement of Offence**

**AGGRAVATED ROBBERY**: Contrary to Section 311 (1)  
(a) of the Crimes Decree, 2009.

**Particulars of Offence**

**JOSAIA KOROINAVOSA with OTHERS**, on the 15<sup>th</sup> day  
of February, 2010 at Suva in the Central Division, robbed  
**KAVITESH KRISHANT LAL** of one Nokia Mobile Phone

valued at FD\$40.00 and immediately before the robbery force was used on the said **KAVITESH KRISHANT LAL**.

## **SECOND COUNT**

### **Statement of Offence**

**THEFT OF A MOTOR VEHICLE**: Contrary to Section 291 (1) of the Crimes Decree, 2009.

### **Particulars of Offence**

**JOSAIA KOROINAVOSA with OTHERS**, on the 15<sup>th</sup> day of February, 2010, at Suva in the Central Division, dishonestly appropriated a motor vehicle registration number FD 722 belonging to **KAVITESH KRISHANT LAL**, with the intention of permanently depriving the said **KAVITESH KRISHANT LAL** of the said motor vehicle.

## **THIRD COUNT**

### **Statement of Offence**

**WRONGFUL CONFINEMENT**: Contrary to Section 286 of the Crimes Decree, 2009.

### **Particulars of Offence**

**JOSAIA KOROINAVOSA with OTHERS**, on the 15<sup>th</sup> day of February, 2010, at Suva in the Central Division, wrongfully confined **KAVITESH KRISHANT LAL** in a motor vehicle registration number FD 722.

## **FOURTH COUNT**

### **Statement of Offence**

**AGGRAVATED ROBBERY:** Contrary to Section  
311(1)(b) of the Crimes Decree, 2009.

**Particulars of Offence**

**JOSAIA KOROINAVOSA with OTHERS**, on the 15<sup>th</sup> day  
of February, 2010 at Suva in the Central Division, being  
armed with offensive weapons robbed **DEE CEES BUS  
COMPANY LIMITED** with cash and cheques to the total  
value of FD\$26,820.20.

2. Your counsel indicated to the court that you are prepared to take a plea, after receiving legal advice. The information was then put to you. It was read and explained to you. You said, you understood the same. Then you pleaded guilty to all the four counts.
3. On 30<sup>th</sup> April, 2013, the prosecutor read the summary of facts in court. Briefly, it was as follows. On 15<sup>th</sup> February, 2010, the accused was 28 years old, married without any child. At the time, he resided at Narere with his wife, and was renting a house for \$250 per month. He worked at the Fiji Golf Club in Vatuwaqa as a caddy boy. According to him, he earned about \$500 per week.
4. Prior to the 15<sup>th</sup> February, 2010, the accused and others planned to rob the Dee Cees Bus Company at Lot 4, Taramati Street, Vatuwaqa. They needed transport to and from the crime scene. The accused arranged for the same by contacting the complainant in counts nos. 1, 2 and 3. The complainant drives a van registration number FD 722. On 15<sup>th</sup> February, 2010, at about 7.30am, the accused called the complainant, to arrange for a job. At 8.30 am, the accused was at the Fiji Golf Club.
5. He was collecting empty beer bottles to be used in the robbery as weapons. After midday, the accused was picked up by others, who were now in control of FD 722. They went to the Dee Cees Bus Company depot. The company was about to do its banking. It had \$26,820.00 cash in a bag, in a car, which was to be used for the banking. The accused and his friends, armed with cane

knives, attacked the bus company employees, and fled with the \$26,820. Nothing was recovered. On 17<sup>th</sup>, 18<sup>th</sup> and 19<sup>th</sup> February, 2010, the accused was caution interviewed by police. He admitted the offences. He was formally charged on 19<sup>th</sup> February, 2010.

6. The court then checked with the accused's counsel to see that the accused had admitted all the elements of the offences in counts nos. 1 to 4. Through his counsel, the accused admitted all the particulars of offences in counts nos. 1 to 4. As a result, the court found him guilty as charged on all counts, and convicted him accordingly, on those counts.
7. Out of all the offences, "aggravated robbery" was the most serious. It carries a maximum penalty of 20 years imprisonment. [Section 311 (1)(a) and (b) of Crimes Decree 2009]. The tariff is a sentence between 8 to 14 years imprisonment: see **State v Manoa**, Criminal Case No. HAC 108 of 2009 and HAC 61 of 2010, High Court, Suva and **State v Sakiusa Rokonakete and Others**, Criminal Case No. HAC 118 of 2007, High Court, Suva.
8. "Theft" carries a maximum sentence of 10 years imprisonment [section 291 (1) of Crimes Decree 2009]. The tariff is a sentence between a suspended prison sentences to 3 years imprisonment: see **State v Mucunabitu and Others**, Criminal Case No. HAC 017 of 2010L, High Court, Lautoka and **Josevati Nakadi v The State**, Criminal Appeal No. HAA 32 of 2010S, High Court, Suva.
9. "Wrongful confinement" carries a maximum sentence of 5 years imprisonment [section 286 of Crimes Decree 2009]. The final sentence will depend on the aggravating and mitigating factors.
10. The aggravating factors were as follows:
  - (i) This was well planned "aggravated robbery" on Dee Cees Bus Company. Obviously, you with others, planned to rob this company. You went about committing other offences (ie. count No. 1, 2 and 3) to obtain a get-away vehicle. You were so determined to commit the aggravated robbery. Somehow, you had information that the company was doing its banking on 15<sup>th</sup> February, 2010. You organized yourselves, got a get-away van, and

sprung a surprise on Mr. Mohammed Rafiq (Dee Cees Bus Company's account's clerk), who was about to take the company's money to the bank, to do the banking. Mohammed Rafiq was struck unconscious in the head with a caneknife. He was bleeding heavily from the head. You stole the company's money, and fled the scene.

- (ii) By committing the above offences, you have shown a willingness to live outside the law, and violently threaten and injure hardworking citizens, to earn your living. By your own actions, you have demonstrated to the community, that you cannot be trusted to live with them for a while, until you change your attitude. At the moment, by your own actions, you have shown utter disregard to the complainant's property rights, by unlawfully stealing their properties. You have also shown utter disregard to the safety of Mohammed Rafiq.
- (iii) Mohammed Rafiq suffered serious injuries as a result of your offending. He was knocked unconscious, at the crime scene. He came to at CWM Hospital. He was seriously injured and bleeding heavily from the crime scene to hospital. He was later taken to and treated at Suva Private Hospital. He got 13 stitches to his head. His skull was fractured, as a result of the cane knife attack. To this day, he is still feeling the effects of his injuries, and requires constant medical attention. Psychologically, he's scarred for life, as a result of the attack. In fact, you are all fortunate in not been charged with an additional offence of attempted murder.
- (iv) The \$26,820.20 stolen from Dee Cees Bus Company had not been recovered.

11. The mitigating factors were as follows:

- (i) The accused pleaded guilty to the offences, although this was approximately 3 years after first call in or about February 2010. You nevertheless saved the court's time;
- (ii) You have been remanded in custody from February 2010 to May 2012, more than 2 years in custody;
- (iii) You are at present serving a 12 years prison sentence from 8<sup>th</sup> May 2012.

12. I start with count no. 4, "aggravated robbery", the most serious of all counts. I start with a sentence of 10 years imprisonment. I increase the same by 7 years for the aggravating factors, making a total of 17 years imprisonment. For the mitigating factors, I decrease the above by 5 years, leaving

a balance of 12 years imprisonment. I sentence you, Josaia Koroinavosa, to 12 years imprisonment on count no. 4.

13. On count no. 1, I start with 8 years imprisonment. I add 2 years for the aggravating factors, making a total of 10 years imprisonment. I deduct 3 years for the mitigating factors, leaving a balance of 7 years imprisonment.

14. On count no. 2, I sentence you to 2 years imprisonment.

15. On count no. 3, I sentence you to 2 years imprisonment.

16. In summary, your sentences are as follows:

|       |             |   |                        |   |                        |
|-------|-------------|---|------------------------|---|------------------------|
| (i)   | Count No. 1 | : | Aggravated Robbery     | : | 7 years imprisonment   |
| (ii)  | Count No. 2 | : | Theft of Motor Vehicle | : | 2 years imprisonment   |
| (iii) | Count No. 3 | : | Wrongful Confinement   | : | 2 years imprisonment   |
| (iv)  | Count No. 4 | : | Aggravated Robbery     | : | 12 years imprisonment. |

All the above sentences are concurrent to each other, that is, a total sentence of 12 years imprisonment.

17. Because you pleaded guilty to the charges, I direct that the above total sentence of 12 years imprisonment, be made concurrent to your present prison sentence.

18. In summary, I sentence you, Josaia Koroinavosa, to a total sentence of 12 years imprisonment, concurrent to your present prison term.

**Salesi Temo**  
**JUDGE**

**Solicitor for the State** : **Office of the Director of Public Prosecutions, Suva.**  
**Solicitor for Accused** : **Legal Aid Commission, Suva.**