

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CRIMINAL JURISDICTION

CRIMINAL CASE NO: HAC 43 OF 2013

BETWEEN : **STATE**

AND : **EPARAMA TAVUALEVU**

Counsel : **Mr S. Babitu for the State**
Accused appeared in Person

Date of Sentence : **16th May 2013**

SENTENCE

[1] The Accused above named is charged with one count of Aggravated Burglary and one count of Theft punishable under Section 313 and 291 of the Crimes Decree respectively.

[2] When the case was mentioned to take plea the Accused pleaded guilty to the charges and admitted the summary of facts.

The Accused together with others had broke into the house of the Complainant and stolen a DVD Player and sold it to a staff at After Dark Night Club for \$30.00 and shared it among other companions.

[3] Section 313 (1) of the Crimes Decree prescribes a maximum sentence of 17 years imprisonment for the offence of Aggravated Burglary.

- [4] Section 291 of the Crimes Decree prescribes maximum sentence of 10 years imprisonment for the offence of Theft.
- [5] Considering the tariff for the offence of Aggravated Burglary in **Tomasi Turuturuvesi v State** (2002) HAA 86/02S the Court accepted between 18 months to 3 years as Tariff.
- [6] Tariff for the offence of Theft was discussed in several cases. In **Waisale Vakarauvanua v State** (2002) FJHC 116; HAA 51J.2004S the Court accepted between 2 to 9 months as tariff for simple theft.
- [7] Considering the nature of the offence I commence your sentence at 18 months imprisonment for the offence of Aggravated Burglary and 6 months for the offence of theft.
- [8] Considering both the Aggravated Burglary and Theft took place in the same course of transaction. Both sentences will be implemented concurrently.
- [9] Considering the aggravating factors
- a) The offence was well planned and executed;
 - b) You broke into a dwelling house;
 - c) Damage to the property.

After considering the above factors I increase your sentence by 3 months now your sentence is 21 months imprisonment.

- [10] Mitigating circumstances
- a) Your early plea;
 - b) Your father claims that you are remorseful.

Considering your mitigating circumstances I reduce 9 months from your sentence now your sentence is 12 months imprisonment.

[11] You plead with Court to give you a very lenient sentence. Considering the nature of the offence and the fact that you are serving a sentence for similar offences I do not find it reasonable to give you a suspended sentence.

[12] Anyhow considering your early plea and your age I act under Section 26(1) of the Sentencing & Penalties Decree and impose the following sentence:

You will be serving 3 months in prison and the balance 9 months is suspended for a period of 2 years.

[13] Your sentence will be consecutive and it will commence after serving the present sentence.

[14] 30 days to appeal to the Court of Appeal.

S. Thurairaja
Judge

At Lautoka
16 May 2013

Solicitors: The Office of the Director of Public Prosecution for State
Accused appeared in Person