

**IN THE HIGH COURT OF FIJI**  
**AT LAUTOKA**  
**CRIMINAL JURISDICTION**

**CRIMINAL CASE NO.: HAC 180 OF 2013**

**STATE**

**-v-**

**SEREMAIA NAICOVI**  
**ERONI RAIKOTI**

**Counsels** : **Mr. Alvin Singh for the State**

**Both Accused In person**

**Date of Sentence** : **09<sup>th</sup> October 2013**

**SENTENCE**

- 1. Seremaia Naicovi and Eroni Raikoti** both of you appear for sentence in this Court after pleading guilty to two counts of Burglary and four counts of Theft in the Magistrates Court in Rakiraki. After enquiry, I am satisfied that your pleas are unequivocal and that you understand the consequence of your pleas. You have agreed to the summary of facts read out to you in the Court below.
- 2. Brief facts are as follows:**

**Count 1 & 2**

Between 1800 hours on 13.8.2013 and 0600 hours on 14.8.2013 at Volivoli Beach Resort, Seremaia Naicovi and Eroni Raikoti broke and entered Room No. 973 and stole FJD 250 and AUD 155 and Digital camera valued \$ 500 the property of Simon Christopher, 52 years, teacher of United Kingdom.

**Count 3, 4 & 5**

Between 12.00 a.m. on 16.8.2013 and 0600 hours on 17.8.2013 at Volivoli Beach Resort, Seremaia Naicovi and Eroni Raikoti broke and entered Room No. 903 and stole a Motorola mobile phone valued \$300, Cannon Digital camera valued \$200, black wallet containing FJD 60 and \$ 120 the property of Shen Khen Henq aged 34 years, Business Investor of New Zealand and also stole one Compaq Laptop valued \$2000, one pair of waterproof Ecolite safety boot valued \$150 the property of Bassan Ghassab aged 43 years, Director of World Forestry Fiji originally of Australia.

Count 6

Between 12 midnight on 16.8.2013 and 0600 hours on 17.8.2013 at Volivoli Beach Resort, Seremaia Naicovi and Eroni Raikoti broke and entered at Volivoli Beach Resort and stole therein a black Billabong vest valued at \$75 the property of Neil Chelderly, 47 years, Manager of United Kingdom.

3. After carefully considering your Plea to be unequivocal, this Court found both of you guilty for each count of burglary and each count of theft and accordingly you are convicted under Section 312 and Section 291 of the Crimes Decree respectively.
4. Both of you stand convicted for two counts of Burglary and four counts of Theft.
5. Section 312 prescribes a maximum sentence of 13 years imprisonment for Burglary.
6. Section 291 prescribes maximum sentence of 10 years for the offence of Theft.
7. Considering the tariff for the offence Burglary in **Turuturuvesi v State** [2002] FJHC 190; HAA 0086J.2000S (23 December 2002) and **State v Buliruarua** [2010] FJHC 384; HAC 157.2010 (6 September 2010) the Court accepted between 18 months to 3 years as tariff.
8. Tariff for the offence of theft was discussed in several cases. In **Saukilagi v State** [2005] FJHC 13 HAC 0021/2004 (27 January 2005) the Court accepted between 2 to 9 months as tariff for simple theft.
9. Both of you are first offenders.
10. Considering the nature of the offence and all other circumstances, I commence your sentence for the 1<sup>st</sup> count at 30 months.
11. State had submitted following aggravating factor:
  - (a) The offences were targeted at Volivoli Beach Resort and items were stolen from tourist.
12. Considering above, I increase your sentence by 6 months, now your sentence is 36 months.
13. For the early guilty plea I deduct 12 months of your sentence, now your sentence is 24 months.
14. Mitigating circumstances of the 1<sup>st</sup> accused are:
  - (a) You are a first offender,

- (b) You are remorseful,
- (c) All items were recovered,
- (d) You are from a broken family,
- (e) You are sole bread winner of the family with one month old baby.

15. Considering above, I reduce 6 months of your sentence, now your sentence is 18 months.

16. I deduct 2 more months for the time period you spend in remand. Now your sentence is 16 months.

17. Mitigating circumstances of the 2<sup>nd</sup> accused are:

- (a) You are a first offender,
- (b) You are remorseful,
- (c) All items were recovered,
- (d) You are the sole bread winner of the family.

18. Considering above, I reduce 6 months of your sentence, now your sentence is 18 months.

19. I deduct 2 more months for the time period you spend in remand. Now your sentence is 16 months.

20. Considering the above and nature of the offence, I impose 8 months imprisonment for each count of theft.

21. All the offences stated above were committed on 13<sup>th</sup> to 16<sup>th</sup> August 2013 on two days with a short period of time. Considering the totality principle, I order all sentences to run concurrently.

22. You both are pleading the Court that you be given another chance in your life.

23. You are pleading the Court to impose a non custodial sentence.

24. Section 26 (1) of the Sentencing and Penalties Decree states as follows:

*On sentencing an offender to a term of imprisonment a Court may make an order suspending, for a period specified by Court, the whole or part of the sentence, if it is satisfied that it is appropriate to do so in the circumstances.*

25. After considering all circumstances, I act under Section 26 (1) of the Sentencing and Penalties Decree and suspend your sentences to a period of 3 years. The nature of the suspended sentence is explained to each accused.

**Summary**

26. You are sentence as follows:

- 1<sup>st</sup> count of Burglary each accused 16 months imprisonment,
- 2<sup>nd</sup> count of Theft each accused 8 months imprisonment,
- 3<sup>rd</sup> count of Burglary each accused 16 months imprisonment,
- 4<sup>th</sup> count of Theft each accused 8 months imprisonment,
- 5<sup>th</sup> count of Theft each accused 8 months imprisonment,
- 6<sup>th</sup> count of Theft each accused 8 months imprisonment,

27. All sentences to run concurrently and all sentences are suspended for 3 years.

28. 30 days to appeal

Sudharshana De Silva  
**JUDGE**

**AT LAUTOKA**  
**9<sup>th</sup> October, 2013**

**Solicitors for the State: Office of the Director of Public Prosecution, Lautoka**  
**Solicitors for the Accused: Both Accused In person**