

IN THE HIGH COURT OF FIJI
AT LABASA
[APPELLATE JURISDICTION]

CRIMINAL APPEAL CASE NO. HAA04 OF 2018

(Magistrates' Court Case No. 601 of 2017)

BETWEEN: **JOELI BETEURATA**

APPELLANT

AND: **THE STATE**

RESPONDENT

Counsel: **Appellant in person**
 Ms A Vavadakua for the Respondent

Date of Hearing: **14 March 2018**

Date of Judgment: **14 March 2018**

JUDGMENT

[1] On two different occasions in 2017, the appellant stole yaqona plants from two different farmers. On the first occasion he stole 10 plants from the farmer Semi Kalouniviti. On the second occasion he stole 3 plants from the farmer Filipe Busi. The total value of all stolen plants was \$1300.00.

[2] The appellant appeared in the Magistrates' Court with his co-accused and pleaded guilty to two charges of theft contrary to section 291 of the Crimes Act 2009. On 31 January 2018, he was sentenced to 7 months' imprisonment on each count, to be served concurrently. The maximum penalty for theft is 10 years imprisonment. The learned magistrate categorized the offence as simple theft. The tariff for simple theft

is 2 to 9 months imprisonment (*Ratusili v State* [2012] FJHC 1249; HAA011.2012 (1 August 2012)).

- [3] On 1 March 2018, the appellant filed this appeal against sentence only. The appeal is late by 1 day.
- [4] Two complaints are being made against the sentence. The first complaint is that the learned magistrate did not consider the appellant's family circumstances. This complaint has no substance. The appellant was a matured man, that is, 26 years old and married with a child. He should have thought of his family before engaging in criminal conduct. Family circumstances carry little value in sentencing for theft.
- [5] The second complaint is that the appellant was less culpable than his co-accused who was his uncle and older than him. Both offenders were jointly charged with the same offence. Their culpability was the same under the principle of joint enterprise. This complaint has no merit.
- [6] The stolen plants were not recovered. The two farmers lost crops of their hard labour. The courts have a duty to protect the farmers from thieves who steal from their farms. A custodial sentence will be imposed on farm thieves to deter others from engaging in similar offences (*State v Ratusuka* [2013] FJHC 93; HAA001.2013 (7 March 2013)). There is no error in the exercise of the sentencing discretion. The sentence reflects the seriousness of the crime and the seriousness of the actual conduct of the appellant. I would grant an enlargement of time but dismiss the appeal.
- [7] Appeal dismissed.



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Hon. Mr Justice Daniel Goundar

Solicitors:

Appellant in person
Office of the Director of Public Prosecutions for the Respondent