

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

CRIMINAL CASE NO: HAC. 29 of 2018

BETWEEN:

STATE

PROSECUTION

AND:

PETERO RATUCOVE

ACCUSED PERSON

Counsel:

Ms. A. Vavadakua for State
Ms. K. Boseiwaqa for Accused

Sentence:

06th July 2018

S E N T E N C E

1. Mr. Petero Ratucove, you are charged with one count of Aggravated Burglary, contrary to Section 313 (1) (a) of the Crimes Act, which carries a maximum sentence of seventeen (17) years imprisonment, and one count of Theft, contrary to Section 291 (1) of the Crimes Act, which carries a maximum sentence of ten (10) years imprisonment. The particulars of the offences are that:

FIRST COUNT

Statement of Offence

AGGRAVATED ROBBERY: *Contrary to Section 313 (1) (a) of the Crimes Act 2009.*

Particulars of Offence

PETERO RATUCOVE with another on 20 March 2018, at Savusavu in the Northern Division, entered into the dwelling house of **SEREMAIA OVINI** as trespassers with intent to commit theft therein.

SECOND COUNT

Statement of Offence

THEFT: Contrary to Section 291 (1) of the Crimes Act 2009.

Particulars of Offence (b)

PETERO RATUCOVE with another on 20 March 2018, at Savusavu in the Northern Division, dishonestly appropriated (stole), 03 pairs of footwear worth FJS\$530.00, 05 caps worth FJS\$160.00 and 01 bag worth FJS\$100.00, all to the total value of FJS\$790.00 the property of **SEREMAIA OVINI**, with the intention of permanently depriving **SEREMAIA OVINI** of his said property.

2. You pleaded guilty for these two counts on the 2nd of July 2018. Satisfied by the fact that you have fully comprehended the legal effect of your plea and your plea was voluntary and free from influence, I convicted you for each of these two counts.
3. According to the summary of fact, which you admitted in open court, that you have forcibly entered into the house of the Complainant with another in the evening of 20th of March 2018 and stolen three pairs of footwear worth of \$530, five caps worth of \$160, and a bag worth of \$100 therein.
4. The tariff for the offence of Aggravated Burglary is between 18 months to 3 years. (State v Drose - Sentence [2017] FJHC 205; HAC325.2015 (28 February 2017) State v Seru - Sentence [2015] FJHC 528; HAC426.2012 (6 July 2015).
5. The tariff for the offence of Theft has been stipulated in Ratusili v State [2012] FJHC 1249; HAA011.2012 (1 August 2012), where Justice Madigan held that:

- i) *For a first offence of simple theft the sentencing range should be between 2 and 9 months.*
 - ii) *Any subsequent offence should attract a penalty of at least 9 months.*
 - iii) *Theft of large sums of money and thefts in breach of trust, whether first offence or not can attract sentences of up to three years*
 - iv) *Regard should be had to the nature of the relationship between offender and victim.*
 - v) *Planned thefts will attract greater sentences than opportunistic thefts.*
6. The offence of aggravated burglary is a serious offence. The maximum penalty for this offence is seventeen years of imprisonment. Burglars invade into the space of others freedom in order to steal from them. Hence, the offence of burglary is one of the dangerous forms of property crime as offender can create the fear and insecurity among the people.
 7. These two offences are founded on the same series of offending of same and similar characters. Therefore, I find it is appropriate to impose an aggregate sentence pursuant to Section 17 of the Sentencing and Penalties Act.
 8. The summary of facts does not reveal any aggravating circumstance of this offending.
 9. You are a first offender and 19 years old. Hence, I give you a substantial discount for your previous good character.
 10. You pleaded guilty for these offences at the first available opportunity. You have admitted in your caution interview that you have committed these offences, and maintained the same position by pleading guilty at the first available opportunity, which demonstrate your remorse and repent in committing these crimes. Hence, I give you one-third discount for your early plea of guilty and remorse.
 11. Having taken into consideration the above discussed factors, I sentence you to aggregate sentence of two (2) years imprisonment for these two counts as charged.

12. In view of the seriousness of this offence, I do not find any appropriate reasons to suspend your sentence.
13. Having considered your age, family circumstances and opportunities for rehabilitation, I do not fix a non-parole period for your sentence.

Head Sentence

14. Accordingly, I sentence you for a period of **two (2) years** imprisonment for these offences as charged.

Actual Period of Sentence of Mr. Petero Ratucove

15. You have been in remand custody for this case for a period of nearly three (3) months as you were not granted bail by the Court. In pursuant of Section 24 of the Sentencing and Penalties Act, I consider the period of three (3) months as the period of imprisonment that have already been served by you.
16. Accordingly, your actual sentencing period is **twenty one (21) months** of imprisonment period.
17. Thirty (30) days to appeal to the Fiji Court of Appeal.




R.D.R.T. Rajasinghe
Judge

At Suva
06th July 2018

Solicitors
Office of the Director of Public Prosecutions for the State
Office of the Legal Aid Commission for the Accused