

IN THE HIGH COURT OF FIJI
AT LABASA
APPELLATE JURISDICTION

Criminal Appeal No. HAA 16 of 2018

JONE DRODROLAGI

v

STATE

Counsels: Appellant in person
Mrs. A. Vavadakua for the State

Dates of Hearing: 15, 17 August 2018

Date of Judgment: 24 August 2018

JUDGMENT

1. On the 18th May 2018 in the Magistrates' Court at Taveuni, the accused entered an unequivocal plea of guilty to one charge of burglary, contrary to s.312 of the Crimes Act 2009 and one count of theft contrary to section 291 of that Act. He was sentenced on the same day to 19 months imprisonment for the burglary offence and 7 months for the theft offence, both terms to be served concurrently. No minimum term was imposed.
2. The Appellant appeals both his conviction and sentence.
3. In his appeal against conviction, the appellant submits that he has been tried and sentenced in the wrong name. All the Court

documents and even the committal warrant are in the name of Jone Radrodro, whereas his real name is Jone Drodrolagi.

4. This clerical error was addressed by Goundar J. when on 8 June 2018 he issued a fresh warrant of Commitment in the name of Jone Drodrolagi Siganilewa (the ascertained real name), the very learned Judge relying on the High Court supervisory jurisdiction pursuant to section 100(6) of the Constitution.
5. The appellant accepts that he was the person who entered the plea without alerting the Court below to the error of name, and he accepts that he was the person sentenced.
6. Having agreed the facts of the case when they were put to him, he cannot now hide behind the name error and say that he was wrongly convicted.
7. He had many opportunities in Taveuni to correct the error in Court, but he chose not to do so.

Sentence

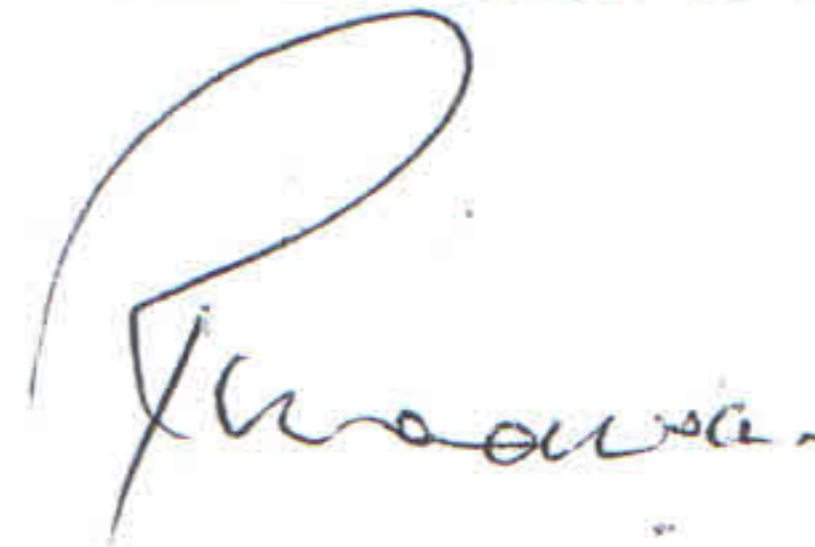
8. In his appeal against sentence the appellant submits that he was refused admittance to the prison because of the warrant being in the wrong name and as a result he was kept in Police custody while the error was being rectified.
9. He also submits that the error precluded him from being regarded as a young first offender; he was sentenced on the record of Jone Radrodro.
10. Finally he asks that he be given credit for the 4 months he spent in remand awaiting trial.

Analysis

11. The appellant misleads the Court in claiming that he was denied the right to be sentenced as a young first offender.
12. The Court below was aware that you are a young person and in noting that fact also noted that you had two previous convictions, both for theft.
13. This Court nevertheless accepts that you were not given credit for your time spent in custody and that you did suffer the indignity of being kept in police cells and not a proper prison.
14. The appeal against conviction is dismissed.
15. The appeal against sentence is allowed In part by reducing the sentence passed by six months.

Orders

1. Appeal against conviction dismissed
2. Appeal against sentence allowed.
3. The term that the appellant will now serve is one of 13 months for the burglary with a concurrent term of 7 months for the theft. Both sentences to run from the date of sentencing which is 8 June 2018



P. K. Madigan

Judge

At Labasa

24 August 2018

