

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Crim. Case No: HAC 331 of 2019

BETWEEN: STATE

PROSECUTION

A N D:

1. RUPENI JOPE VEREMO
2. JOJI VIQUA VERESI

ACCUSED PERSONS

Counsel : Ms. M. Konrote for the State
: Mr. K. R. Prasad for 1st Accused
: Ms. P. Mataika for 2nd Accused.

Date of Sentence : 04th December 2019

SENTENCE

1. Mr. Rupeni Jope Veremo and Joji Viqua Voresi, you are being charged with one count of Aggravated Burglary, contrary to Section 313 (1) (a) of the Crimes Act, which carries a maximum penalty of seventeen (17) years imprisonment and one count of Theft, contrary to Section 291 (1) of the Crimes Act, which carries the maximum penalty of ten (10) years imprisonment. The particulars of the offences are that:

COUNT 1

Statement of Offence

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

Particulars of Offence

RUPENI JOPE VEREMO and **JOJI VIQUA VORESI** in the company of each other on the 15th day of September, 2019 at Suva in the Central Division, entered into the residence of **FRANCES TUIMABUALAU** as trespassers with intent to commit theft therein.

COUNT 2

Statement of Offence

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

Particulars of Offence

RUPENI JOPE VEREMO and **JOJI VIQUA VORESI** in the company of each other on the 15th day of September, 2019 at Suva in the Central Division, dishonestly appropriated \$20000.00, 1 x J2 Samsung phone, assorted jewelry, 1 x Amazon tablet, 1 x Pulsar wrist watch the property of **FRANCES TUIMABUALAU** with the intention of permanently depriving **FRANCES TUIMABUALAU** of said property.

2. Both of you pleaded guilty to these two counts on the 24th of October 2019. 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 now convict both of you to each of these two counts.
3. According to the summary of facts, which you admitted in court, you have entered into the compound of the complainant by climbing over the fence on the 15th of September 2019 at around 8.30 a.m. You then entered into the house by forcefully opening a window and stole the items therein as described in the particulars of offence of the second count. While ransacking the house, you have entered into the second bedroom and found Mr. Jonas Star was sleeping in it. He got up and managed to apprehend the first accused, while the second accused managed to escape from the scene.


4. This is a breaking into a residential property and stealing therein. You broke into this house, expecting the owners were away. The crimes in this nature which are targeting the dwelling houses undoubtedly affect the entire community. You have instilled fear and insecurity among the people by committing this crime. I accordingly, find this is a serious offence.
5. Having taken into consideration the serious nature of this offence, I now proceed to determine an appropriate sentence for you in line with general principles, objectives and purposes of sentencing under sections 4 (1) and 4 (2) and 15 of the Sentencing and Penalties Act.
6. All of these 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.
7. 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)**). Justice Perera found the applicable tariff for the Aggravated Burglary is 6 to 14 years imprisonment. (**State v Prasad (2017) FJHC762; HAC 254.2016 (12 October 2017, State v Naulu 2018 FJHC548 (25 June 2018)**). Justice Aluthge in **State v Ali (2019) FJHC975;HAC227.2019 (30 September 2019)** found that the tariff for Aggravated Burglary ranges from 18 months to 3 years imprisonment. Aluthge J further held that in serious and sophisticated cases of Aggravated Burglary, where the value of the property stolen is considerably high, the recommended tariff range is from 6 years to 14 years imprisonment.
8. 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.*
9. Taken into consideration the nature of the items that you have stolen and the manner that you have entered into the premises, I find the level of culpability and the harm is reasonably high in this offending.
 10. Having taken into consideration the serious nature of this crime and the level of culpability and harm, I select thirty (30) months as the starting point.
 11. Mr. Rupeni Jope Veremo, you are a 19 years old young first offender. Mr. Joji Viqua Voresi, you are a 25 years old young offender, though you are not a first offender as you have one previous conviction recorded in 2015 for an offence of similar nature.
 12. Both of you pleaded guilty of these offences at the first available opportunity. In doing that you have expressed and shown your remorse and repent in committing this crime. Therefore, you are entitled for a substantial discount for your early plea of guilty.
 13. In view of the reasons discussed above, Mr. Rupeni Jope Veremo, I reduce four (4) months for your unblemished character, reaching twenty six (26) months. I further reduced 6 months for your early pleas of guilty making twenty (20) months as the final sentence.
 14. Accordingly, Mr. Rupeni Jope Veremo, I sentence you to a period of twenty (20) months as an aggregated sentence for these two counts as charged in the information.

15. Mr. Joji Viqua Voresi, I reduce six (6) months for your early plea of guilty, making your final sentence as twenty four (24) months imprisonment.
16. Mr. Joji Viqua Voresi, I now sentence you to a period of twenty four (24) months as an aggregated sentence for these two counts as charged in the information.
17. Taking into consideration your young age, opportunities for rehabilitation, and the nature of this offending, I partially suspend both of your sentence pursuant to Section 26 (1) of the Sentencing and Penalties Act.
18. Accordingly, Mr. Rupeni Jope Veremo, I order that you serve twelve (12) months of the sentence in prison forthwith and the remaining period of eight (08) months is suspended for a period of three (3) years.
19. Mr. Joji Viqua Voresi, I order that you serve eighteen (18) months of the sentence in prison forthwith and the remaining period of six (06) months is suspended for a period of three (3) years.
20. If you commit any crime during that period of three (3) years and found guilty by the court you are liable to be charge and prosecute for an offence in pursuant of Section 28 of the Sentencing and Penalties Act.
21. You have been in remand custody for this case for a period of nearly two (2) months and fifteen (15) days before this sentence. In pursuant of Section 24 of the Sentencing and Penalties Act, I consider the period of three (3) months as a period of imprisonment that have already been served by you.
22. Accordingly, Mr. Rupeni Jope Veremo, the actual period of sentence that you are ordered to serve is nine (09) months.

23. Mr. Joji Viqua Voresi, the actual period of sentence that you are ordered to serve is fifteen (15) months.
24. Thirty (30) days to appeal to the Fiji Court of Appeal.




R.D.R.T. Rajasinghe
Judge

At Suva
04th December 2019

Solicitors
Office of the Director of Public Prosecutions for the State.
Office of the Legal Aid Commission for the 1st Accused.
Office of the Legal Aid Commission for the 2nd Accused.