

**IN THE HIGH COURT OF FIJI AT SUVA**

**CASE NO: HAC. 63 of 2018**  
[CRIMINAL JURISDICTION]

**STATE**

**V**

**RUSIATE ROKOBULOU**

**Counsel** : Mr. E. Samisoni for the State  
Accused in person

**Hearing on** : 23 November – 01 December 2020

**Summing up on** : 03 December 2020

**Judgment on** : 03 December 2020

**Sentenced on** : 07 December 2020

**SENTENCE**

1. Rusiate Rokobulou, you stand convicted for the offence of aggravated robbery contrary to section 311 (1) of the Crimes Act 2009, after trial. The charge reads thus;

*Statement of Offence*

**Aggravated Robbery:** contrary to Section 311(1)(a) of the Crimes Act 2009.

*Particulars of Offence*

**ARTHUR APOROSA VUALIKU, GAUNAVOU DELAI and RUSIATE ROKOBULOU with another** on the 24<sup>th</sup> day of January, 2018 at Nasinu in the Central Division, in the company of each other, robbed **NARAYAN PRASAD** of 1x TFL Switch Board set, 1x TFL handset phone, 1x router internet connection, 12x 300ml cans of Coca Cola, 1x TG silver hard drive, 1x tablet red bag, 1x pinch bar, 1x digital camera, 1x pair of black safety boots and \$75.00 cash the property of **DIGNIFIED CREMATORIUM**.

2. Briefly, you with three others entered the premises of Dignified Cremations Crematorium at Davuilevu around 1.45am on 24/01/18 and assaulted PW1 who was the security guard on duty. One of the four broke one leg of PW1 by hitting with a piece of timber. Then the hands and the legs of PW1 were tied and was carried to the back of the building. Thereafter while one of the assailants remained with PW1, you and two others broke into the crematorium. You broke a glass window to enter into the building. Either when breaking the window or while entering through the broken window, you sustained a cut injury that resulted in leaving your blood stains at the said point of entry and inside the building. You and the two others who entered the building then stole certain items that were inside the building. Thereafter you and the others left the premises leaving PW1 at the back of the building with his hands and legs tied. Only one item, the internet router was recovered.
  
3. The maximum sentence for the offence of aggravated robbery contrary to section 311(1) of the Crimes Act is 20 years imprisonment. The sentencing tariff for the offence is a term of imprisonment between 08 to 16 years as pronounced in the case of *Wise v State* [2015] FJSC 7; CAV0004.2015 (24 April 2015).
  
4. Even though the Supreme Court in *Wise* (supra) did not limit the operation of the said tariff to cases where the offence is committed in a particular manner, later on, a view was established in the lower courts through precedent, that because *Wise* (supra) was a case of home invasion, the said tariff should not apply for cases of aggravated robbery that are not committed during home invasions. There is no gainsaying that there is not much of a difference between a home invasion and the invasion of business premises. Central to both types of offending is the conduct of breaking into a building that belongs to someone, an act that instills fear and a sense of insecurity in the minds of the members of the community. Therefore, the tariff of 08 to 16 years imprisonment should apply to cases where any building has been broken into, in committing the offence of aggravated robbery.

5. In my view, the sentencing process for the offence of aggravated robbery would become so complicated and inefficacious if different sentencing tariffs were to be established and/or applied for every possible manner the offence is committed, such as, by home invasion, by invading business premises, invasion during night, invasion during daytime, when committed inside a taxi, when committed inside a private vehicle, when committed inside a bus, etc.
6. The main purpose of imposing a sentence in this case should be to impose an appropriate punishment that would serve as a deterrent to you and to would-be offenders with similar impulses. Your punishment should also reflect the denunciation of your conduct by this court and the community.
7. You are 30 years old and is in a relationship. Your last employment as noted in the Antecedent Report is 'scrap metal buyer'. You had reached form 7.
8. I would select 08 years imprisonment as the starting point of your sentence.
9. I would take into account the following as aggravating circumstances in this case, and in view of same, I would add 07 years to the starting point;
  - a) the nature of force used on PW1 in committing the offence which was substantial;
  - b) the fact that the offence was committed by a group of four (the minimum number of offenders required to constitute the offence being two);
  - c) the offence was committed with frightening circumstances where you and the other offenders were masked, which also indicates that the offence was carried out with some planning; and
  - d) the building broken into was a place where a public service is provided and a considerable damage was caused to the building according to the evidence.

10. During the hearing on sentencing and mitigation, initially, you submitted a document in which you have stated that you wish to remain silent and will not mitigate. This was a clear indication that you do not have any remorse over your criminal conduct. Moreover, you were initially represented by the Legal Aid Commission. Despite the repeated advice given by this court, you decided to withdraw your instructions from the said Commission and to appear in person. This again was an indication of your indifference towards the court process. I must make it clear that these circumstances will not be regarded as aggravating features against you in deciding your sentence. Nevertheless, if your attitude and the conduct was otherwise, it would have earned you an appropriate reduction of your sentence.
11. When you were explained the consequences of refusing to mitigate, you then requested the court to consider your commitment towards your family and the remand period as mitigating factors.
12. Having considered the circumstances, the only mitigating factor relevant to this case is the fact that you are a first offender. I would deduct 2 years in view of this factor.
13. Accordingly, I hereby sentence you to an imprisonment term of 13 years. I order that you are not eligible to be released on parole until you serve 12 years of the sentence, pursuant to the provisions of section 18(1) of the Sentencing and Penalties Act.
14. I note that you have been in custody for this matter for a period of 02 years; 03 months; and 25 days. The said period shall be regarded as a period of imprisonment already served by you in view of the provisions of section 24 of the Sentencing and Penalties Act.

15. In the result, you are hereby sentenced to an imprisonment term of 13 years with a non-parole period of 12 years. Considering the time spent in custody, the time remaining to be served is as follows;

Head Sentence - 10 years; 08 months; and 05 days

Non-parole period - 09 years; 08 months; and 05 days

16. Thirty (30) days to appeal to the Court of Appeal.



A handwritten signature in blue ink, appearing to read "Vinsent S. Perera".

Vinsent S. Perera  
JUDGE

**Solicitors;**

**Office of the Director of Public Prosecutions for the State  
Accused in person**