

IN THE HIGH COURT OF FIJI AT SUVA

CASE NO: HAC. 210 of 2020

[CRIMINAL JURISDICTION]

STATE

V

IOWANE VEREMO

Counsel : Mr. E. Samisoni for the State
Ms. J. Manueli for the Accused

Date of Sentence : 10 December, 2020

SENTENCE

1. Iowane Veremo you have pleaded guilty to the charges produced below and you were convicted as charged accordingly on 19/11/20;

FIRST COUNT

Statement of Offence

Aggravated Burglary: contrary to Section 313(1)(a) of the Crimes Act 2009.

Particulars of Offence

IOWANE VEREMO with another, between the 8th day of July, 2020 to the 9th day of July, 2020 at Vatuwaqa, Suva in the Central Division, in the company of each other, entered as trespassers into **TOKUSO PACIFIC LIMITED,** with the intent to commit theft.

SECOND COUNT

Statement of Offence

Theft: contrary to Section 291 (1) of the Crimes Act 2009.

Particulars of Offence

IOWANE VEREMO with another, between the 8th day of July, 2020 to the 9th day of July, 2020 at Vatuwaqa, Suva in the Central Division, in the company of each other, dishonestly appropriated (stole) 1x silver HP laptop and \$635.00 cash the property of **TOKUSO PACIFIC LIMITED**, with the intention of permanently depriving **TOKUSO PACIFIC LIMITED** of the said property.

2. You have admitted the following summary of facts;

Complainants (PW1): Hizaz Mahsood, owner of Tokuso Pacific Limited situated at Vatuwaqa, Suva.

(PW2): DC 3080 Abhinay Prasad of Nabua Police Station.

Accused (A1): Iowane Veremo (*alias* - "Kovu"), 25 years old, unemployed of Veidogo settlement, Vatuwaqa.

On 8 July, 2020 at around 5pm, PW1 closed up his shop and went home. On 9 July, 2020, PW1 opened up his shop at around 8am he saw his washroom lights switched on which he found unusual as they normally switch off all the lights before they leave for home. At around 9am, he went to his office to use his silver HP laptop valued at \$2,100.00 when he noticed that it was missing together with its charger. PW1's cash of \$635.00 was also missing from his drawer. PW1 found the point of entry to be through his ceiling. The laptop charger was also missing. The suspects had removed the tin and entered the workshop. A day later on 10 July, 2020 the Police had recovered PW1's stolen laptop which he positively identified via the serial number. On 11 July, 2020, PW1 handed over the CCTV footage of his workshop to the Police to assist in their investigations.

PW2 stated that he and the rest of the Operations Team viewed the CCTV footage and were able to identify A1 and his accomplice. PW2 stated that on 10 July, 2020, he was involved in a raid and that during the raid he seized a HP laptop from the residence of A1. **Annexed as PE 1 is a copy of the said Search List.**

A1 made admissions in his Record of Interview (Q&A 38 – 62) whereby he stated that he and his juvenile accomplice entered PW1's shop through the roof, entered the office and stole the cash and laptop. It was during his interview when A1 showed the interviewing officer that he had kept the same laptop at his residence. The laptop was seized thereafter (Q&A 63 – 66) from A1. **The Photographic Booklet of the recovered laptop is annexed as PE 2.**

From Q&A 74 – 77, A1 was shown the CCTV footage where he identified himself and his juvenile accomplice in it. **Annexed as PE 3 is a copy of the Record of**

Interview of A1 (English and itaukei versions).

On 28 September, 2020, A1 pleaded guilty to both counts as charged. A1 is a first offender.

3. The tariff for the offence of aggravated burglary which carries a maximum penalty of 17 years imprisonment should be an imprisonment term within the range of 6 years to 14 years. [Vide *State v Prasad* [2017] FJHC 761; HAC254.2016 (12 October 2017); *State v Naulu* [2018] FJHC 548 (25 June 2018); and *State v Nanovu* [2020] FJHC 985; HAC121.2020 (25 November 2020)]
4. The offence of theft contrary to section 291 of the Crimes Act carries a maximum sentence of 10 years. In the case of *Waqa v State* [HAA 17 of 2015], this court held that the tariff for the offence of theft should be 4 months to 3 years imprisonment.
5. In the case of *State v Chand* [2018] FJHC 830; HAC44.2018 (6 September 2018), Morais J observed thus;

12. Burglary of home must be regarded a serious offence. A home is a private sanctuary for a person. People are entitled to feel safe and secure in their homes. Any form of criminal intrusion of privacy and security of people in their homes must be dealt with condign punishment to denounce the conduct and deter others. As Lord Bingham CJ in **Brewster** 1998 1 Cr App R 220 observed at 225:

“Domestic burglary is, and always has been, regarded as a very serious offence. It may involve considerable loss to the victim. Even when it does not, the victim may lose possessions of particular value to him or her. To those who are insured, the receipt of financial compensation does not replace what is lost. But many victims are uninsured; because they may have fewer possessions, they are the more seriously injured by the loss of those they do have. The loss of material possessions is, however, only part (and often a minor part) of the reason why domestic burglary is a serious offence. Most people, perfectly legitimately, attach importance to the privacy and security of their own homes. That an intruder should break in or enter, for his own dishonest purposes, leaves the victim with a sense of violation and insecurity. Even where the victim is unaware, at the time, that the burglar is in the house, it can be a frightening experience to learn that a burglary has taken place; and it is all the more

frightening if the victim confronts or hears the burglar. Generally speaking, it is more frightening if the victim is in the house when the burglary takes place, and if the intrusion takes place at night; but that does not mean that the offence is not serious if the victim returns to an empty house during the daytime to find that it has been burgled. The seriousness of the offence can vary almost infinitely from case to case. It may involve an impulsive act involving an object of little value (reaching through a window to take a bottle of milk, or stealing a can of petrol from an outhouse). At the other end of the spectrum it may involve a professional, planned organization, directed at objects of high value. Or the offence may be deliberately directed at the elderly, the disabled or the sick; and it may involve repeated burglaries of the same premises. It may sometimes be accompanied by acts of wanton vandalism."

6. The two offences you are convicted of are founded on the same facts. Therefore, in view of the provisions of section 17 of the Sentencing and Penalties Act, I consider it appropriate to impose an aggregate sentence of imprisonment against you for the two offences you have committed.
7. You are 26 years old and single. It is submitted that you had been working at a supermarket before your recent arrest. You live with your mother and your 4 months old niece.
8. It is also submitted that you have undergone seven surgeries due to a certain condition in relation to your heart and a pacemaker has been implanted where you are required to attend reviews at the hospital every four months. This court was also informed that you were being medically advised not to do any heavy lifting. I have noted this medical condition of yours but at the same time I am also mindful of the fact that this particular condition or the relevant medical advice did not stop you from committing the offence relevant to this case by entering into the relevant building through the roof.
9. I find it appropriate to consider the value of the items stolen as an aggravating factor in view of the fact that a laptop and \$635 cash were stolen. The summary of

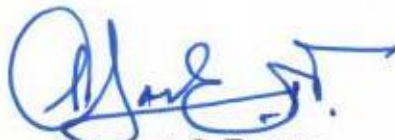
facts also reveals that you have committed the above offences along with a juvenile offender, which should also be considered as an aggravating factor.

10. In addition to the fact that you have entered an early guilty plea, I would consider the following as your mitigating factors;
 - a) You are a first offender;
 - b) There is partial recovery (the stolen laptop);
 - c) You are remorseful; and
 - d) You have cooperated with the police.
11. I would select 06 years as the starting point of the aggregate sentence. I would add 01 year in view of the aggravating factors. I would deduct 03 years in view of the above mitigating factors. Now the sentence is 04 years imprisonment. In view of your early guilty plea, I would grant a discount of one-third.
12. Accordingly, the final sentence is 02 years and 08 months (after deducting 1 year and 4 months). I would fix the non-parole period at 02 years in terms of the provisions of section 18(1) of the Sentencing and Penalties Act.
13. You have spent a period 04 months and 10 days in custody in relation to this matter. However, this period had been regarded as time served in case No. HAC109/2020 which was in relation to offences committed around 05 months before you committed the two offences relevant to this case. Therefore, the aforesaid term you have spent in custody cannot be regarded as time you have already served in relation to this case pursuant to the provisions of section 24 of the Sentencing and Penalties Act.
14. You are not a young offender and there is no restitution. It was submitted that you are not in a position to return the amount you have stolen. You have used the money and had consumed the alcohol. You have not taken any steps to compensate the complainant and it is your position that you do not have the means. I do not want to send a message to the individuals who may consider to

take the path you have taken, that they can enjoy the proceeds of their crime and yet escape imprisonment by pleading guilty in the event they get caught. In anyway, a custodial sentence is imposed on you on this date in Case No. HAC209/2020. In view of the above circumstances, your sentence will not be suspended.

15. I further order that you shall serve the sentence imposed in this case concurrently with the sentence that is imposed on you in relation to Case No. HAC209/2020.
16. In the result, you are hereby sentenced to an imprisonment term of 02 years and 08 months with a non-parole term of 02 years. This sentence shall run concurrently with the sentence imposed in Case No. HAC209/2020. The single non-parole term you need to serve in relation to the sentences imposed in both cases is a term of 02 years from this date.
17. Thirty (30) days to appeal to the Court of Appeal.




Vinsent S. Perera
JUDGE

Solicitors;

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