

IN THE HIGH COURT OF FIJI AT SUVA

CASE NO: HAC. 221 of 2019

[CRIMINAL JURISDICTION]

STATE

V

ILISAVANI TAMANISAVE

Counsel : Mr. E. Samisoni for the State
Ms. H. Hazelman and Mr. K. Skiba for the Accused

Hearing on : 10 - 11 February 2020

Summing up on : 12 February 2020

Judgement on : 12 February 2020

Sentenced on : 21 February 2020

SENTENCE

1. The above named accused was convicted for the offence of aggravated robbery contrary to section 311 (1) of the Crimes Act 2009, after trial. The accused who was on bail has opted not to attend court after the defence case was closed. The charge reads thus;

Statement of Offence

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

Particulars of Offence

ILISAVANI TAMANISAVE with others on the 4th day of June, 2019 at Nasinu in the Central Division, in the company of each other, stole a bag containing a Samsung mobile phone charger and a pair of sunglasses from

RONEEL PRAKASH and immediately before stealing from **RONEEL PRAKASH**, used force on him.

2. Briefly, the accused with two others attacked the victim who was on his way home after work and stole the bag the victim was carrying which contained a Samsung mobile phone charger, a pair of sunglasses and a bunch of keys. While the two accomplices grabbed the victim from behind and put him down, the accused tried to grab the said bag from the victim. When the victim held onto the bag, the accused punched the victim on his chest a few times which caused the victim to let go of the bag. The accused was caught with the said stolen bag soon after the robbery.
3. The maximum sentence for the offence of aggravated robbery contrary to section 311(1) of the Crimes Act is 20 years imprisonment. Considering the manner in which this offence was committed I would classify the offending in this case as 'street or less sophisticated' aggravated robbery as identified in the case of *State v Bulavou* [2019] FJHC 877; HAC28.2018 (10 September 2019) and accordingly the applicable sentencing tariff should be an imprisonment term between 05 years and 13 years.
4. The accused is 26 years old and single. His last employment was at a sawmill factory.
5. I would select 05 years imprisonment as the starting point of the sentence.
6. I would take into account the following as aggravating circumstances in this case, based on which I would add 03 years to the starting point:
 - a) the nature of force used on the victim by the accomplices and by the accused;
 - b) the fact that the offence was committed by a group of three (the minimum number of offenders required to constitute the offence being two); and

- c) the accused and the two accomplices targeted a victim who was returning home from work and attacked the victim in front of his house.
7. The accused is a first offender and the items stolen were recovered. I would consider these as mitigating factors and would deduct 2 years accordingly.
 8. Given the accused's conduct where he has decided to abscond during his trial I consider it necessary in this case to fix the non-parole period relatively closer to the head sentence.
 9. Accordingly, I hereby sentence the accused to an imprisonment term of 06 years. I order that the accused is not eligible to be released on parole until he serves 05 years of the sentence pursuant to the provisions of section 18(1) of the Sentencing and Penalties Act.
 10. I note that the accused had been in custody for this matter for a period of 05 months and 16 days. The said period shall be regarded as a period of imprisonment already served by the accused in view of the provisions of section 24 of the Sentencing and Penalties Act.
 11. In the result, the accused is sentenced to an imprisonment term of 06 years with a non-parole period of 05 years. Considering the time spent in custody, the time remaining to be served is as follows;

Head Sentence - 05 years; 06 months; and 14 days

Non-parole period - 04 years; 06 months; and 14 days

12. The warrant issued against the accused is extended.
13. This imprisonment term to be effective from the day the accused is arrested and committed to the prison.

14. 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
Legal Aid Commission for the Accused