

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

LAUTOKA CRIMINAL CASE NO. HAC 27 OF 2019L

STATE

vs

EPI BATIREREGA

**Counsels : Ms. S. Sharma for State
Mr. K. Chang for Accused**

Hearings : 24 October and 15 November, 2019.

Sentence : 21 February 2020.

SENTENCE

1. On 24 October 2019, in the presence of his counsel, the following information was put to the accused:

Statement of Offence

ACT WITH INTENT TO CAUSE GRIEVOUS HARM: Contrary to section 255 (a) of Crimes Act 2009.

Particulars of Offence

EPI BATIREREGA on the 24th day of January 2019 at Navosa in the Western Division, with intent to cause grievous harm to LASARO SAQANAVERE, unlawfully wounded the said LASARO SAQANAVERE.

2. The information was read and explained to him in the i-taukei and English languages. He said, he understood the information and pleaded guilty to the charge. The prosecution then presented their summary of facts.
3. Briefly the facts were as follows. On 24 January 2019, the complainant was 17 years old. He resided in Nawairabe Village. He was a farmer by profession. The accused was 51 years old, and also resided in the same village. He was also a farmer by profession. The complainant and the accused were somewhat related. According to the accused, the complainant was his nephew.
4. On 24 January 2019, the complainant and a friend were riding their horses to Natukalevu farm. On the way, they met the accused, who was also riding his horse, and holding a cane knife. Prior to this, a village youth had informed the accused that the complainant had stolen one of the accused's horse. The accused then called the complainant to him and asked him why he took his horse in November 2018.
5. The accused then struck the complainant's head twice with the blunt side of his cane knife. The complainant received injuries to his head. He fled from the scene on his horse. The matter was reported to police. An investigation was carried out. The complainant was medically examined at Sigatoka Hospital. He had two cuts to the head and a cut to a finger. The accused was later charged with "act with intent to cause grievous harm", contrary to section 255 (a) of the Crimes Act 2009.
6. Defence Counsel, on behalf of the accused, admitted the above summary of facts. He was found guilty as charged and convicted accordingly by the court. The matter

was adjourned to 15 November 2019 for plea in mitigation and sentence submission. Defence had submitted a well prepared written plea in mitigation.

7. Parliament views the offence of “Act with Intent to Cause Grievous Harm” seriously. It carried a maximum sentence of life imprisonment (section 255 (a) of the Crimes Act 2009). The accepted tariff for this offence had been a sentence between 6 months to 5 years imprisonment, and it could go higher, if the circumstances justify it: see **State v Maba Mokubula**, Criminal Appeal No. HAA 052 of 2003S, High Court, Suva. Of course, the final sentence will depend on the aggravating and mitigating factors.
8. The aggravating factor in this case was the use of extreme violence to discipline his nephew for allegedly stealing his horse. The mitigating factors were many. First, he saved the court’s time by pleading guilty to the offence, although this was 8 months after first call in the High Court. Second, he didn’t use the sharp end of the cane knife on the complainant, otherwise the charge would have been murder or attempted murder. Third, he co-operated with police during the investigation by admitting the offence when cautioned. Fourth, he had apologized to the complainant’s family. Lastly, he had been remanded in custody awaiting trial and sentence for approximately 1 year one month.
9. I start with a sentence of 2 years imprisonment. I add 3 months for the aggravating factors, making a total sentence of 2 years 3 months. For time already served, I deduct 1 year one month, leaving a balance of 1 year 2 months. I deduct another 6 months for pleading guilty, leaving a balance of 8 months. For the other mitigating factors, I deduct another 8 months, leaving a balance of zero. The end result was that you had already served your sentence. You are released forthwith.

10. 30 days to appeal to the Court of Appeal.



Salesi Temo
JUDGE

Solicitor for the State : **Office of the Director of Public Prosecution, Suva.**
Solicitor for the Accused : **Legal Aid Commission, Suva.**