

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 194 OF 2019S

STATE

vs

LEMEKI VAKACEGU TAREGUCI

**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:

COUNT 1

Statement of Offence

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

Particulars of Offence

LEMEKI VAKACEGU TAREGUCI in the company of another, on 20th May, 2019 at Nasinu in the Central Division, broke and entered into HANSONS SUPERMARKET as trespassers with intent to commit theft.

COUNT 2

Statement of Offence

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

Particulars of Offence

LEMEKI VAKACEGU TAREGUCI in the company of another, on 20th May, 2019 at Nasinu in the Central Division, dishonestly appropriated (stole) assorted bottles of liquor, the properties of HANSONS SUPERMARKET, with intention of permanently depriving it of the said properties.

2. The information was read and explained to the accused, both in the i-taukei and English languages. He said, he understood the information and pleaded guilty to both counts. The matter was adjourned to 15 November 2019, to enable the prosecution to prepare their summary of facts.
3. On 15 November 2019, the prosecution presented their summary of facts. Briefly they were as follows: On 20 May 2019, the accused and his accomplice decided to break into Hanson Supermarket, at Nasinu in the Central Division. In the early morning of 20 May 2019, the two arrived at Hanson Supermarket. The accomplice climbed on a truck parked at the back of the supermarket, broke a back window with a pinch bar, and went into the building.
4. The accused was standing as a "look out" outside the supermarket. The accomplice stole approximately 60 bottles of liquor, put the same in various bags and passed the same to the accused outside. The police however suddenly arrived at the scene. The accused was arrested at the crime scene. All the stolen liquor were recovered. He was later charged with count no. 1 and 2 in the information.

5. Defence counsel, on behalf of the accused, admitted the above summary of facts. The court then found the accused guilty as charged on both counts, and convicted him accordingly on the same.
6. Accused's counsel submitted a written plea in mitigation for the accused. He was a first offender. He pleaded guilty 5 months after first call in the High Court. He was 18 years old at the time. He was a Year 13 student of Assemblies of God High School.
7. "Aggravated burglary" is an indictable offence, and viewed seriously by the Parliament of Fiji. It carried a maximum penalty of 17 years imprisonment (section 313 (1) (a) of Crimes Act 2009). The tariff for the offence is a sentence between 6 to 14 years imprisonment: see **State v Shavneel Prasad**, Criminal Case No. HAC 254 of 2016, High Court, Suva. Of course, the final sentence will depend on the aggravating and mitigating factors. The maximum sentence for theft is 10 years imprisonment.
8. I can't find any aggravating factors in this case. However, there are lots of mitigating factors. First, at the age of 18 years, he is a first offender. He was a Year 13 student at Assembly of God High School. He didn't break into the supermarket, although he acted as a lock out. He was not a clever thief. All the stolen liquor were recovered at the crime scene by the police, who stumbled on the unsuspecting thieves. He had been remanded in custody for approximately 2 months.
9. On count no. 1, I start with a sentence of 6 years. I deduct 4 years for him being a first offender, leaving a balance of 2 years. I deduct another 3 months for him been remanded in custody for over 2 months, leaving a balance of 1 year 9 months. For

the stolen properties been recovered, I deduct 1 year leaving a balance of 9 months imprisonment. On count no. 1, I sentence the accused to 9 months imprisonment.

10. For the theft charge, I sentence him to 6 months imprisonment.
11. Both sentences are concurrent to each other, that is, a total sentence of 9 months imprisonment. I suspend the sentence for 12 months. On the facts of this case, there is no need to put the accused into custody.
12. 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.**