

IN THE HIGH COURT OF FIJI
AT SUVA
[CRIMINAL JURISDICTION]

CRIMINAL CASE NO. HAC 309 OF 2018

BETWEEN : STATE

AND : SAMUELA ROGOKACI BOKADI

Counsel : Ms B Kantharia for the State
Ms L Ratidara & Mr K Verebalavu for the Accused

Date of Hearing : 23 - 27 February 2020

Date Sentence : 15 May 2020

SENTENCE

- [1] Following a trial, the offender was convicted of six counts of attempted act with intent to cause grievous harm and four counts of resisting arrest. He pleaded guilty to a charge of damaging property (count three) before the commencement of trial.
- [2] The offender was in a living relationship with the victim on count one. The couple lived in a separate dwelling with his parents living next to them. In the morning of 24 July 2018 the couple had an argument over him being away from home in the weekend. The offender's father, Mr Bokadi Snr out of concern for the safety of the victim told her to take refuge at the Delainavesi Community Police Post next to their home. The Police Post is located at the Delainavesi Junction near the Queens Highway. On that morning the Police Post was being managed by WSC Tulia Tuikenawa, the victim on count two.
- [3] Shortly after the victim arrived at the Police Post, Mr Bokadi Snr followed her as he was concerned about her safety. While Mr Bokadi Snr was having a conversation with WSC

Tuikenawa, the offender came down to the Police Post with two cane knives. He tried to enter the Police Post but Mr Bokadi Snr stopped him.

- [4] WSC Tuikenawa warned the offender not to enter the Police Post but the offender became aggressive and threatened her. She called for a backup but her call was not answered. She then tried to reach out to the public on the highway for help when the offender struck her legs with the cane knife. The police officer managed to dodge the knife and run to safety. By that time three more police officers, the victims on counts four to nine arrived at the scene after seeing the commotion from the highway. When the officers told the offender to put down his weapon and surrender he ran after them with the knives, hurling threats to kill. The police officers had to retract to avoid being harmed by the offender.
- [5] The offender made several attempts to gain entry into the Police Post knowing his partner was hiding inside, but Mr Bokadi Snr obstructed him. In rage the offender struck the Police Post several times causing extensive damage to the building. The total value of the damage done to the property of Fiji Police Force was \$587.56.
- [6] Eventually a backup police team arrived and the offender turned to them as well. He struck a police officer, the victim on counts ten and eleven with the cane knife but the officer dodged and fell off the tray of the vehicle.
- [7] The police officers then armed themselves with rocks and approached the offender. It was only then the offender dropped his knives and surrendered. He was arrested and escorted to the Lami Police Station.
- [8] The offence of attempted act with intent to cause grievous harm is punishable by life imprisonment. The tariff for the offence is 6 months to 5 years imprisonment, and in cases where the attack is with a weapon, a prison sentence is inevitable (*State v Mokubula* [2003] FJHC 164; HAA0052J.2003S (23 December 2003)). The offence of resisting arrest is punishable by 5 years' imprisonment and damaging property is punishable by 2 years' imprisonment.

[9] The offender is 22 years of age. At the time of the offending he was 20 years old. He comes from a disadvantaged background. According to his psychological assessment report, the offender's disadvantaged background may have led him to commit the offences on 24 July 2018.

[10] The offender was born when his mother was incarcerated in prison for an offence. Two weeks after his birth, she was granted an early release to assist with lactation and bonding between the mother and child. The offender grew up in an unstable environment. He was raised by his older siblings as his parents spent most of their time in prison while he was growing up. He entered primary school but dropped out later when his mother was incarcerated in prison. His relationship with his father was abusive. He was exposed to drugs and alcohol at a very young age. At the age of 14, he got involved in delinquency and was detained in a centre for juvenile delinquency.

[11] When he turned adult he had difficulty in maintaining lasting relationships. In 2017 he met the victim on count one when she was a student at the Fiji National University. She later decided to discontinue her studies and settle down with him. But there remained an element of distrust between them which caused them to quarrel a lot in their relationship. They argued in the morning of 24 July 2018 leading to the offender expressing himself angrily towards her and the police officers who came to her rescue later that morning. His actions may have been impulsive rather than premeditated. Fortunately, no one was physically injured by the actions of the offender. The Court has been informed that the relationship between the offender and his partner had ended after he was arrested and remanded in custody in this case.

[12] I give the offender some credit in sentence for his disadvantaged background, his young age and his guilty plea to the charge of damaging property. I also give him credit that this is his first conviction for an offence as an adult.

[13] However, the offences are objectively serious due to the following aggravating factors.

- The offences were committed using cane knives.

- Substantial damage was done to a Community Police Post which is a public property.
- The attack on the partner was domestic violence and a breach of trust.
- Police officers were attacked when they were carrying out their lawful duties.
- The duration of the attack was long and in the plain view of the public at a highway.

[14] Domestic violence and assault on police officers are becoming too prevalent in our community. These offences must be treated seriously as they strike at the very heart of law enforcement and public safety. The courts duty is to denounce any form of violence against a person and pass sentence that has the effect of deterrence on the offender and others. The punishment must reflect that the offences involved multiple victims.

[15] The offender had been in custody on remand for nearly 22 months. This period is considered as a downward adjustment to the final sentence.

[16] Taking all these matters into account the offender is sentenced to:

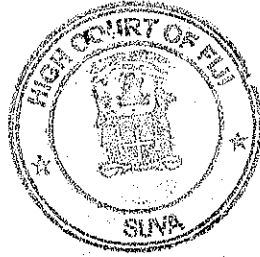
(i) an aggregate term of 4 years' imprisonment for the offences of attempted act with intent to cause grievous harm as convicted on counts one, two, four, six, eight and ten;

(ii) an aggregate term of 2 years' imprisonment for the offences of resisting arrest as convicted on counts five, seven, nine and eleven;

(iii) 1 year imprisonment for the offence of damaging property as convicted on count three.

[17] Making all the terms of imprisonment cumulative will result in a crushing sentence. However, I consider the offence of damaging property as a separate offence from attempted act with intent to cause grievous harm and resisting arrest to justify an additional punishment to reflect the total criminality involved. I order the sentence of 1 year imprisonment for damaging a public property to be served consecutively with the aggregate terms imposed for attempted act with intent to cause grievous harm and

resisting arrest. The total effective term is 5 years' imprisonment with a non-parole period of 3 years.



A handwritten signature in black ink, appearing to be "D. Goundar", written over a horizontal dotted line.

Hon. Mr Justice Daniel Goundar

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