

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

High Court Criminal Case No. HAC 379 of 2019

BETWEEN : THE STATE

AND : DOUGLAS MATAKIBAU

Counsel : Ms Bhavna Kantharia for the State
Ms Talei Kean for the Accused

Date of plea : 19 February 2020

Date of Sentence : 03 July 2020

SENTENCE

1. Douglas Matakibau, you freely and voluntarily pleaded guilty to one count of aggravated burglary contrary to section 313(1)(a) of the Crimes Act 2009 and another count of theft contrary to section 291(1) of the Crimes Act 2009.
2. The Court is satisfied that your plea is unequivocal and upon your admission of the summary of facts, you are convicted as charged.

3. You admitted that you were in the company of two other persons who broke into a house at Biau Drive, Cunningham Stage 2 on 02 November 2019. You stood guard for the other two persons to gain entry into the house through a window. The complainant was sleeping inside when the items were stolen from his house.

4. The following items were stolen;

- 1X Samsung A30 Mobile Phone
- 1X wallet containing \$3000 cash
- 1X Pro Book
- 1X iPhone
- 1X Lenovo laptop
- 1X silver HP laptop
- 1X bottle Kraken Rum
- 1X bottle Ratu Rum
- 1X Samsonite black bag
- 1X knapsack bag
- 1X Oakley sunglasses
- 1X Sodo headphone
- 1X red Gyganet power bank

5. You received \$ 500 as your share from the stolen cash. Some of the items which were sold to other persons by one of the accomplices were recovered by the Police.

6. The house which was broken into was a dwelling house and moreover, the offences were committed whilst the complainant and his brother were sleeping in their rooms. It manifests clear disregard for privacy and safety of others. These offences are very prevalent in the society. I consider those as aggravating factors.

7. I have considered the mitigation submissions filed by the Legal Aid Counsel on your behalf. You are 18 years of age and letters were submitted to confirm that you

are a student of Dudley High School. Your Counsel submitted various certificates to show that you have excelled in sports and you are a person of good character. It appears that you have committed these offences due to peer pressure. You have expressed remorse and entered an early plea saving the time of the Court. I have considered the fact that you have cooperated with the Police. Further the State informed court that you are a first offender.

8. It was also submitted that were in custody for 68 days.
9. The maximum punishment for aggravated burglary is 17 years imprisonment. The tariff of 18 months to 3 years set in *Turuturuvesi v State* [2002] FLR 521 (23 December 2002) has been the tariff adopted by the courts in a long line of cases even after the introduction of the Crimes Act: *State v. Drose* [2017] FJHC 205; HAC 325.2015 (28 February 2017); *State v Tukele* [2018] FJHC 558; HAC179.2018 (28 June 2018); *State v. Rasegadi & Another* [2018] FJHC 364; HAC 101.2018 (7 May 2018); *State v Ravunaceva* [2018] FJHC 1026; HAC152.2018 (25 October 2018); *State v Tukele* [2018] FJHC 558; HAC 179.2018 (28 June 2018).
10. The maximum punishment for theft is 10 years imprisonment and the tariff for theft is 2 months to 3 years subject to the nature of offending as per *Ratusili v State* [2012] FJHC 1249 HAA011.2012 (1 August 2012).
11. The offences in this case are originated from the same transaction. Section 17 of the Sentencing and Penalties Act provides that if the offences are founded on the same facts the court can impose an aggregate sentence. Therefore, I decide to impose an aggregate sentence in respect of the two counts.
12. Having taken into account all the matters discussed above, I decide to impose an aggregate sentence of 18 months imprisonment on you.
13. You have committed very serious offences. Yet the court has a duty to promote rehabilitation of young offenders. It appears that you have distinct potential to

reform and learn from your mistakes. Having considered your genuine remorse, your young age and previous records, I decide to suspend the sentence for 3 years.

14. Accordingly, I impose 18 months imprisonment on you and suspend it for three years.

15. The effects and consequences of the suspended sentence are explained.

30 days to appeal to the Court of appeal.



Rangajeeva Wimalasena
Acting Judge

Solicitors for the State: Office of the Director of Public Prosecutions

Solicitors for the Accused: Office of the Legal Aid Commission