

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

**CASE NO: HAC. 152 of 2019**

**BETWEEN** : **STATE**

**AND** : **2. VOVILIO TEBEKA**

*Counsel* : *Ms. P. Lata for State*  
: *The Accused appears in Person*

*Hearing on* : *16<sup>th</sup> February 2021*  
*Sentence* : *24<sup>th</sup> February 2021*

**SENTENCE**

1. Mr. Vovilio Tebeka, you have freely and voluntarily pleaded guilty to the count of theft before the matter is fixed for trial. I am satisfied and convinced that you have pleaded so, unequivocally and having understood the consequences of such a plea.
2. You were charged as follows;

**COUNT 5**

***Statement of Offence***

Theft: contrary to section 291(1) of the Crimes Act 2009.

***Particulars of Offence***

Vovilio Tebeka, on the 31<sup>st</sup> day of May, 2019, at Nadi, in the Western Division, dishonestly appropriated (stole) 3 x bale of Yaqona to the total

value of \$16,560.00, the property of **CDP (Courier, Document & Parcel) Office** with the intention of permanently depriving **CDP (Courier, Document & Parcel) Office** of the said properties.

3. State has submitted the following as the Summary of Facts;

- i The complainant is Muni Avinesh (hereafter PW1) 39 years, Manager of Mulomulo, Nadi.*
- ii The accused is Vovilio Tebeka (hereafter Accused) 28 years, Driver of Votualevu, Nadi.*
- iii On the 31<sup>st</sup> of May, 2019 PW 1 discovered that the CDP (Courier Document & Parcel) office was broken into and that 3 x bale of yaqona were stolen, all to the total value of \$16,560.00. He reported the matter to Police. Investigations were carried out by Police and the accused was arrested.*
- iv The Accused was interviewed under caution by DC 5523 Keleto Vodo whereby he admitted that at about 12 am between 30<sup>th</sup> to 31<sup>st</sup> of May 2019, he went to Nadi Back road with another. They parked beside the sugarcane field at the CDP office at Nadi back road [Q & A 53-54]. His friends were waiting at the CDP office for him. They then loaded 3 bale of waka in their vehicle and took it to Livai's house in Bila. They unloaded the waka at Livai's house in Bila. [Q & A 56-58]. The waka/yaqona belonged to CDP office [Q & A 63].*
- v The Accused was charged with 1 count of Theft contrary to Section 291 (1) of the Crimes Act 2009.*
- vi The Accused pleaded guilty on the 30<sup>th</sup> of December 2020 on his own free will for the above charge of Theft.*

4. The said Summary of facts were read over and explained to you. You having understood the same agreed them to be true and correct.

5. I find that the summary of facts supports all elements of the charge in the 05<sup>th</sup> count of the Information. Accordingly, I find the 5<sup>th</sup> count proved on the Summary of Facts

agreed by you. Therefore, I convict on your own plea of the count of Theft as charged.

6. Section 4 of the Sentencing and Penalties Act No. 42 of 2009 (“Sentencing and Penalties Act”) stipulates the relevant factors that a Court should take into account during the sentencing process. I have duly considered these factors in determining the sentence to be imposed on you.
7. Theft is committed if a person dishonestly appropriates property belonging to another with the intention to permanently depriving him of the property. The maximum penalty for theft is 10 years imprisonment under section 291 of the Crimes Act.
8. As for the offence of theft the accepted tariff would range from 2 months to 3 years (**Ratusili v State** [2012] FJHC 1249; HAA 011.2012).
9. An aggravating factor present in your case is that it is a preplanned theft but you were only the carrier. The value of the stolen articles are about \$16,000.00.
10. Their mitigating factors are;
  - i. you have one previous conviction for larceny in 2003.
  - ii. You pleaded guilty before the commencement of the trial.
  - iii. You are said to be remorseful and seek leniency and forgiveness from the court.
11. I would select 18 months as the starting point of your sentence. I would enhance 6 months due to aggravating factors mentioned above and deduct 3 months in consideration of the mitigating factors. Now your sentence is an imprisonment term of 21 months.

12. You have pleaded guilty before the commencement of the trial and I will award a discount of 3 months for that. Therefore your final sentence is 18 months of imprisonment.
13. You were arrested on 29<sup>th</sup> of August 2019 and been in remand custody since then. Therefore, you have been in remand for about 5 days short of 18 months.
14. I consider that you have sufficiently served your term, hence order to set you free.
15. You have 30 days to appeal to the Court of Appeal if you so desire.



**Chamath S. Morais**  
**JUDGE**

At Lautoka  
24<sup>th</sup> February 2021.

**Solicitors for the State** : **Office of the Director of Public Prosecutions, Lautoka.**  
**Solicitors for the Accused** : **The Accused Appeared in Person.**