

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

**Criminal Case No.: HAC 35 of 2021**

**BETWEEN** : STATE

**AND** : JOELI MOLELE

**Counsel** : Ms J. Fatiaki for the State  
Ms R. Raj for the Accused

**Dates of Hearing** : 16 November 2021

**Date of Sentence** : 19 November 2021

**SENTENCE**

1. On 3 May 2021, at around 3 am, the Accused in the company of another entered a dwelling house at Namara, Labasa as trespassers and stole nine bottles of liquor and one carton of chemical. Entry to the house was gained by breaking the front door using a galvanized pipe. At the time the owner of the property was living abroad and a caretaker was looking after the premises. The caretaker discovered the break-in when she returned to the property during the day.
2. The Accused was arrested and interviewed under caution. He admitted breaking, entering and theft from a dwelling house during curfew hours. He was charged with aggravated burglary, theft and failure to comply with an order issued by the Permanent Secretary of Health and Medical Services. He has pleaded guilty to all three charges at the first opportunity.
3. The Accused is 21 years old and is unemployed. He is single and lives with his parents and two siblings. He helps his parents with farming.

4. The mitigating factors are that the Accused is a young and a first time offender. He is remorseful and saved court's time and resources by pleading guilty.
5. However, the offences are objectively serious. Aggravated burglary is punishable by 17 years imprisonment. The tariff range from 18 months to 3 years imprisonment (*Leqavuni v State* [2016] FJCA 31; AAU0106.2014 (26 February 2016)).
6. Theft is punishable by 10 years imprisonment and the failure to comply with orders issued under the Public Health Act is punishable by a fine of \$10,000.00 or 5 years imprisonment.
7. The statutory aggravation is that the burglary was committed in the company of another. Burglary and theft are also prevalent in our community. Invasion of home is considered a serious offence. The offence intrudes into a person's right to privacy and safety.
8. The courts duty is to send a clear message that any intrusion of privacy and safety of home owners will be dealt with severe punishment. The main purpose of sentence for burglary and theft is deterrence, both special and general.
9. I consider an aggregate sentence is appropriate. All three offences are part of one transaction. I use 2 years as a starting point. I add 6 months for the aggravating factors and reduce 12 months for the mitigating factors.
10. The Accused is convicted and sentenced to an aggregate term of 18 months imprisonment. The Accused had already served 6 months in custody on remand. I find he is genuinely remorseful and the prospect of rehabilitation is strong. I suspend the sentence for 2 years.



Hon. Mr Justice Daniel Goundar

**Solicitors:**

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

