

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 052 OF 2021S

STATE

VS

ALIKI WALIQI LIVAI KIKO

Counsels : Mr. E. Samisoni for State
Ms. L. Manulevu and Ms. R. Bainivalu for Accused
Hearings : 17 March and 8 April, 2022.
Sentence : 23 May, 2022.

SENTENCE

1. On 17 March 2022, in the presence of your counsels, the following amended information was read over and explained to you:

“Statement of Offence

MURDER: *Contrary to Section 237 of the Crimes Act 2009.*

Particulars of Offence

ALIKI WALIQI LIVAI KIKO *between the 5th day of February, 2021 and the 6th day of February, 2021 at Navua in the Southern Division murdered LUMILOTE VIBOTE.”*

2. You said, you understood the same, and pleaded guilty to the same. The court checked with you and your counsels that you were pleading guilty voluntarily to the information and that no one forced you to do the same. You and your counsels confirmed that you were pleading guilty voluntarily to the information and that no one forced you to do the same. You confirmed that you were pleading guilty out of your own free will.
3. On 8 April 2022, the prosecution presented their summary of facts in court. Briefly, the facts were as follows. The deceased was 75 years old, and a caretaker of a farm in Navua. The accused was 24 years old, and worked as a labourer at Kaiming Agro Ginger Factory at Navua. He earned \$130 per week. On 5 February 2021 (Friday), after 6.30 pm, the deceased went to a friend's home in Navua and drank yaqona with friends until between 11.30 pm and 12 midnight, the 6th February 2021. He then decided to walk to his home, which was nearby.
4. The accused, on the other hand, had finished work on 5 February 2021, and had collected his \$130 weekly pay. He then went and bought some liquor. He met his friend and they went to the accused's home to consume the alcohol. They also smoked some marijuana. After a while, the accused and his friend ran out of alcohol. The accused later decided to go out to the road to steal some money and drinks. He took an iron rod and kitchen knife from his home, and went towards the Crest Farm Road. On the road, the accused met the deceased, who was at the time, returning to his home.
5. According to the accused, he called the deceased, who later swore back at him, saying "Luveni Magaitinamu" (your mother's vagina). Accused took no notice of the same and kept walking. However, he later thought about the swear words, and returned to the deceased. He then struck the deceased multiple times on the head with the iron rod. The deceased fell to the ground heavily injured, but was

still breathing. The accused later dragged him to the drain and stabbed the left side of his chest 8 times. The accused then stole \$100.00 from the deceased. According to the post mortem report, the deceased died on 6 February 2021 at 1205 hours, as a result of the accused's above actions, which caused massive brain and body injuries to the deceased.

6. The court then checked with the defence on whether or not they had admitted all the elements of the offence of murder. The defence admitted the accused, at the material time, struck the deceased multiple times on the head with an iron rod and also stabbed him 8 times on the left side of his chest. They admitted that, as a result of the above, the deceased suffered serious brain and chest/body injuries, which later caused his death. They also admitted that by doing the above, the accused intended to cause the deceased's death. As a result of the above, the court found the accused guilty as charged and convicted him accordingly.
7. There is only one sentence for those found guilty of murder, that is, a mandatory sentence of life imprisonment. The court is given a judicial discretion to set a minimum term to be served before a pardon may be considered by His Excellency, the President of the Republic of Fiji (section 237 of the Crimes Act 2009 and section 119 of the 2013 Constitution of the Republic of Fiji).
8. After carefully reading the prosecution's summary of facts, your police caution interview statements, the booklet of photos of the crime scene, the booklet of photos of the post-mortem examination, including the other papers, I had come to the conclusion that the violence you meted out to the deceased, at the time of the murder, was in the extreme. You not only hit the deceased multiple times on the head with an iron rod, causing him to fall down on the ground, suffering massive brain injuries. You heard him breathing thereafter. You then dragged him to the drain and stabbed him eight times on the left side of his chest. One of the stab perforated his heart. He died shortly thereafter, at the crime scene. I note you

had been drinking liquor and smoking marijuana with your friend prior to the incident.

9. You ran out of funds, and in your caution interview statements, you admitted you took an iron rod and a kitchen knife from your house, to go to the road to commit robbery, to obtain funds to buy more drinks. After killing the deceased, you stole \$100 from him to buy further drinks. I note you co-operated with the police during the investigation, and admitted the offence when caution interviewed by police. I note you pleaded guilty to murder approximately 11 months after first call in the High Court. You said, you murdered the deceased because he swore at you. This was your version. However, it was never an excuse to unlawfully take someone's life. You have caused untold miseries to the deceased's family.
10. Mr. Aliko Waligi Livai Kiko, for murdering Mr. Lumilote Vibote between the 5th and 6th February 2021, at Navua in the Central Division, I sentence you to mandatory life imprisonment, with a minimum term of 17 years to be served before a pardon may be considered by His Excellency the President of the Republic of Fiji. I order so accordingly.
11. The above sentence is designed to punish you in a manner that is just, to protect the community from would-be-offenders, to deter others, to set pre-conditions for rehabilitation and to signify that the court and the community denounce what you did to the deceased between the 5th and 6th February 2021
12. You have 30 days to appeal to the Court of Appeal



Solicitor for State
Solicitor for Accused

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Office of the Director of Public Prosecution, Suva
Legal Aid Commission, Suva



Salesi Temo
JUDGE