

Particulars of Offence

NEMANI BALEINAKUTAVUTAVU and SULLIASI KALOUNISIGA TAMANALEVU on the 20th of August, 2022 at Bunako Circle, Pacific Harbour in the Central Division, in the company of each other entered into the dwelling house of **ETHAN BUKSH** as a trespasser, with intent to commit theft.

Count 2

Statement of Offence

THEFT: Contrary to Section 291 (1) of the Crimes Act 2009.

Particulars of Offence

NEMANI BALEINAKUTAVUTAVU and SULLIASI KALOUNISIGA TAMANALEVU on the 20th of August, 2022 at Bunako Circle, Pacific Harbour in the Central Division, in the company of each other dishonestly appropriated 2 x 1 litre Finlandia Vodka, the property of **LILIA SASSEN** with the intention of permanently depriving **LILIA SASSEN** of the said property.

Count 3

Statement of Offence

THEFT: Contrary to Section 291 (1) of the Crimes Act 2009.

Particulars of Offence

NEMANI BALEINAKUTAVUTAVU and SULLIASI KALOUNISIGA TAMANALEVU on the 20th of August, 2022 at Bunako Circle, Pacific Harbour in the Central Division, in the company of each other dishonestly appropriated 1 x Apple iPhone 6s, the property of **TIM PALMER** with the intention of permanently depriving **TIM PALMER** of the said property.

Count 4

Statement of Offence

THEFT: *Contrary to Section 291 (1) of the Crimes Act 2009.*

Particulars of Offence

NEMANI BALEINAKUTAVUTAVU and SULIASI KALOUNISIGA TAMANALEVU on the 20th of August, 2022 at Bunako Circle, Pacific Harbour in the Central Division, in the company of each other dishonestly appropriated 1 x Apple iPad and 1 x Sony headphones the property of **MICHAEL COONEY** with the intention of permanently depriving **MICHAEL COONEY** of the said property.

Count 5

Statement of Offence

THEFT: *Contrary to Section 291 (1) of the Crimes Act 2009.*

Particulars of Offence

NEMANI BALEINAKUTAVUTAVU and SULIASI KALOUNISIGA TAMANALEVU on the 20th of August, 2022 at Bunako Circle, Pacific Harbour in the Central Division, in the company of each other dishonestly appropriated 1 x 1 litre Appleton Estate Jamaica Rum, 1 x HP Laptop with a bag and 1 x red Ultimate Ears Bluetooth speaker, the property of **VANESSA HUNTER** with the intention of permanently depriving **VANESSA HUNTER** of the said property.

2. Satisfied that you have fully comprehended the legal effect of your plea and that your plea was voluntary and free from influence, I now convict you of these offences of Aggravated Burglary and Theft.

3. According to the summary of facts you admitted in open Court, you had committed this crime with another accomplice. You entered the house occupied by the Complainants with your accomplice while they were sleeping on the night of the 20th of August 2022 and stole the items described in the Information.
4. This is breaking into a dwelling house and stealing while the occupants are asleep. Crimes of this nature, targeting the dwelling houses, undoubtedly affect the entire community. You have instilled fear and insecurity among the people by committing this crime. I, accordingly, find this is a severe offence.
5. Having considered the serious nature of these offences, I now proceed to determine an appropriate sentence for you in line with general principles, objectives, and purposes of sentencing as stated under sections 4 (1) and 4 (2) and 15 of the Sentencing and Penalties Act.
6. These five offences are founded on the same series of offences. Therefore, it is appropriate to impose an aggregate sentence pursuant to Section 17 of the Sentencing and Penalties Act.
7. The tariff for the offence of Aggravated Burglary is between 18 months to 3 years. The tariff for the offence of Theft has been stipulated in **Ratusili v State [2012] FJHC 1249; HAA011.2012 (the 1st of August 2012)**, where Justice Madigan held that:
 - i) *For a first offence of simple Theft the sentencing range should be between 2 and 9 months.*
 - ii) *Any subsequent offence should attract a penalty of at least 9 months.*
 - iii) *Theft of large sums of money and thefts in breach of trust, whether first offence or not can attract sentences of up to three years.*


(iv) *Regard should be had to the nature of the relationship between offender and victim.*

v) *Planned thefts will attract greater sentences than opportunistic thefts.*

8. The Complainants were tourists who came to Fiji for a vacation. Considering the background of the Complainants, the nature of the items you have stolen, and how you entered the premises, I find the level of culpability and harm is high in these offences.
9. You are a young first offender. You pleaded guilty to these offences at the first available opportunity. Moreover, you admitted your responsibilities for committing these offences in your caution interview. In doing that, you have expressed and shown your remorse for committing this crime. Therefore, you are entitled to a substantial discount for your early plea of guilty and previous good character.
10. Considering the above reasons, I sentence you to 24 months imprisonment as an aggregated sentence for these five counts as charged. Your sentence is partially suspended, where you shall serve 12 months of your sentence instantly, and the remaining 12 months are suspended for three years. Considering the time spent in custody (nearly two months), I consider two (02) months as a period of imprisonment that you have already served. Accordingly, the actual period you have to serve in custody is **ten (10) months** imprisonment.
11. If you commit any crime during three (3) years and are found guilty by the Court, you are liable to be charged and prosecuted for an offence according to Section 28 of the Sentencing and Penalties Act.

12. Thirty (30) days to appeal to the Fiji Court of Appeal.




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Hon. Mr. Justice R.D.R.T. Rajasinghe

At Suva

04th November 2022

Solicitors

Office of the Director of Public Prosecutions for the State.

Office of the Legal Aid Commission for the Accused.