

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

**CRIMINAL CASE NO.: HAC 104 of 2022**

**BETWEEN:** STATE

**PROSECUTION**

**AND:** 1. PITA RALACA  
2. MARIKA TABUDRAVU

**ACCUSED PERSON**

**Counsel:** Ms. Latu L. for State  
Accused in Person

**Date of Hearing:** 7 - 8 November 2022

**Date of Sentence:** 10 November 2022

**SENTENCE**

1. Mr Pita Ralaca and Mr Marika Tabudravu, both of you, pleaded guilty to one count of Aggravated Burglary, contrary to Section 313 (1) (a) of the Crimes Act, which carries a maximum sentence of seventeen years imprisonment, and one count of Theft, contrary to Section 291 (1) of the Crimes Act, which carries a maximum sentence of ten years imprisonment. The particulars of offences are:

**COUNT ONE**

*Statement of Offence*

**AGGRAVATED BURGLARY:** Contrary to section 313 (1) (a) of the Crimes Act 2009.

*Particulars of Offence*

**PITA RALACA AND MARIKA TABUDRAVU**, sometime between the 17<sup>th</sup> of September 2022 and the 18<sup>th</sup> of September, 2022 at Lekutu, Bua, in the Northern Division, in the company of each other entered the office of the **MINISTRY OF FISHERIES** as trespassers with the intention to commit theft therein.

**COUNT TWO**

*Statement of Offence*

**THEFT**: Contrary to section 291 of the Crimes Act 2009.

*Particulars of Offence*

**PITA RALACA AND MARIKA TABUDRAVU**, sometime between the 17<sup>th</sup> of September 2022 and the 18<sup>th</sup> of September, 2022 at Lekutu, Bua, in the Northern Division, in the company of each other dishonestly appropriated 1 x Brother printer machine and 1 x stamp and stamp pad, the properties of the **MINISTRY OF FISHERIES** with the intention of permanently depriving the said **MINISTRY OF FISHERIES** of its properties.

2. Satisfied by the fact that you have fully comprehended the legal effect of your pleas and that your pleas were voluntary and free from influence, I now convict both of you of these offences of Aggravated Burglary and Theft.
3. According to the Summary of Facts, you had broken into the Ministry of Fisheries Office by removing the louvre blades of the window. You then stole one printing matching, one stamp and one stamp pad.

4. This is a breaking of a State property and stealing therein. You broke into this government office in the night. Crimes of this nature, targeting the State's properties, 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 under sections 4 (1) and 4 (2) and 15 of the Sentencing and Penalties Act.
6. All of these offences are founded on the same series of offending. 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 (1 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. Considering the nature of the items you have stolen and how you have entered the premises, the level of culpability and harm is high in this offence.

9. Mr Pita Ralaca, you are a young first offender. Mr Marika Tabudravu, you are also a young first offender. Both of you pleaded guilty to these offences at the first available opportunity. Therefore, you are entitled to a substantial discount for your early plea of guilty and previous good character.
10. Considering the reasons discussed above, Mr Pita Ralaca, I sentence you to 20 months imprisonment as an aggregated sentence for these two counts as charged. Your sentence is partially suspended, where you shall serve ten (10) months of your sentence immediately, and the remaining period of ten (10) months is suspended for three years. Considering the time spent in remand custody (nearly two months), the actual period you have to serve is **eight (8) months imprisonment**.
11. Mr Marika Tabudravu, I sentence you to 20 months imprisonment as an aggregated sentence for these counts as charged. Your sentence is partially suspended, where you shall serve ten (10) months of your sentence forthwith, and the remaining period of ten (10) months is suspended for three years. Considering the time spent in remand custody (nearly two months), the actual period you have to serve is **eight (8) months imprisonment**.
12. If you commit any crime during that period of 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.
13. Thirty (30) days to appeal to the Fiji Court of Appeal.

At Labasa  
10 November 2022



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

Solicitors  
Office of the Director of Public Prosecutions for the State  
Accused in Person