

IN THE HIGH COURT OF FIJI

AT SUVA

[CRIMINAL JURISDICTION]

CRIMINAL CASE NO. HAC 007 OF 2022

BETWEEN : STATE

AND : SAMUEL DEAN
TAITO TALEMAIBAU
ISIRELI VEIKOSO
MANASA ROKOTUIVEIKAU

Counsel : Ms B Kantharia & Mr T Naimila for the State
Ms N Ali for 1st & 2nd Accused
Ms L David for the 3rd Accused
4th Accused in Person

Date of Hearing : 14 – 23 November 2022

Date of Judgment : 25 November 2022

SENTENCE

[1] Samuel Dean, Taito Talemaibau, Isireli Veikoso and Manasa Rokotuiveikau were jointly charged with aggravated robbery. Samuel, Taito and Isireli pleaded guilty to the charge on the eve of the trial. Manasa was found guilty of the charge after trial.

[2] The facts are that on 19 December 2021, all four offenders were drinking alcohol in Kinoya when they decided to rob a shop in their neighbourhood. Manasa sneaked into the shop from the back entrance wearing a mask and a cap, while Samuel, Taito and Isireli distracted the cashier by pretending to be genuine customers. The cashier was a young female and the only employee present in the shop at the time. The shop is owned by a woman of Chinese decent.

- [3] Manasa remained hiding inside the shop and when one of his accomplices gave him all clear hand signal, he attacked the cashier and pushed her away from the counter. The cashier was terrified but she managed to press the security alarm. Manasa hurriedly picked up the containers or tills containing about \$1700.00 cash kept at the bottom of the counter and pushed them over the counter where his accomplices, Samuel, Taito and Isireli were waiting. After passing on the containers to his accomplices, Manasa ran out and joined them. They grabbed the containers and fled the scene. Two civilian witnesses spotted all four offenders carrying the containers outside the shop premises and trying to flag down a taxi. Stolen cash had not been recovered.
- [4] All four offenders are young between the age of 19 and 22 years. None has any stable employment. All except Manasa are first time offenders. Manasa has a previous conviction for aggravated burglary in 2019. He was given a partial custodial and partial suspended sentence for that offence.
- [5] Guilty pleas of the first three offenders are late. However, the realization of guilt, although late, indicates their willingness to take responsibility for their crime. Their mitigating factors are their guilty pleas, young age and previous good character. The prospect of rehabilitation is high for these three offenders.
- [6] Manasa played a principal role in the robbery. He sneaked into the shop wearing a mask and a cap to conceal his identity. He hid behind the shelves, waiting for the right opportunity to strike. Although not significant, but some planning was involved to execute the robbery. Apart from being young, Manasa does not have any compelling mitigating factors like his accomplices.
- [7] The offence of aggravated robbery is punishable by 20 years imprisonment. The main purpose of sentence is deterrence, both special and general. In order to maintain consistency in the approach, I adopt the sentencing guidelines proposed by the Supreme Court for aggravated robbery in *State v Tawake* [2022] FJSC 22; CAV0025.2019 (28 April 2022).

- [8] In the present case, minimum force was used to execute the robbery. The victim was not physically injured. Weapon was not used. There is some evidence that the victim was distressed when the robbery took place, but there is no evidence of a psychological harm done to the victim.
- [9] When the level of harm is low Tawake's case recommend a starting point of 3 years imprisonment and the sentencing range of 1-5 years imprisonment.
- [10] For all four offenders I pick 3 years as my starting point.
- [11] I give 18 months discount to Samuel, Taito and Isireli for their mitigating factors (guilty plea, youth and previous good character). In their case, there are no aggravating factors to enhance the sentence as the statutory aggravation is incorporated in the starting point.
- [12] Samuel, Taito and Isireli are convicted and sentenced to 18 months imprisonment. Suspension is inappropriate due to the objective seriousness of the offence of robbery.
- [13] I give 6 months discount to Manasa for his young age and I enhance his sentence by 18 months for his principal role and aggravating factors.
- [14] Manasa is sentenced to 4 years imprisonment.
- [15] The final factor is the time spent in custody on remand. Remand period is taken as imprisonment term already served as follows:

Samuel Dean

Head Sentence – 18 months imprisonment

Remand Period 189 days/7 months

Balance Sentence to serve 11 months imprisonment

Taito Talemaibau

Head Sentence – 18 months imprisonment

Remand Period 168 days/6 months

Balance Sentence to serve is 12 months imprisonment

Isireli Veikoso

Head Sentence – 18 months imprisonment

Remand Period 59 days/2 months

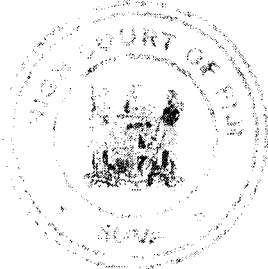
Balance Sentence to serve is 16 months imprisonment

Manasa Rokotuiveikau

Head Sentence – 4 years imprisonment

Remand Period 329 days/11 months

Balance Sentence to serve is 3 years 1 month imprisonment with a non-parole period of 2 years.



A handwritten signature in black ink, appearing to read "D. Goundar".

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Hon. Mr Justice Daniel Goundar

Solicitors:

Office of the Director of Public Prosecutions for the State

Legal Aid Commission for the 1st, 2nd & 3rd Accused

4th Accused in Person