

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

**CRIMINAL CASE NO. HAC 118 OF 2022**

**BETWEEN** : STATE

**AND** : 1. MELI NAKALEVU  
2. ISOA LAWAVAU

**Counsel** : Ms E Thaggard for the State  
Both Accused in Person

**Date of Hearing** : 01 March 2023

**Date of Sentence** : 03 March 2023

**SENTENCE**

1. The two accused have pleaded guilty to one count each of aggravated burglary and theft.
2. The facts are that on 15 November 2022 the two accused decided to steal from a house at Coloci, Seaqaqa after learning the occupants had gone out somewhere.
3. Entry to the house was made by removing the louver blades from a window. The second accused entered the house while the first accused stayed outside. After entering the house the second accused grabbed and passed on numerous household items to the first accused through the window. They hid some of the items in the cane field behind the complainant’s house and took the remaining items with them. The total value of the items stolen was \$2,291.00. When the

owners returned the following day they found out that their house had been broken into and household items missing.

4. The two accused were arrested and interviewed under caution. They made full admissions to police. Some stolen items were retrieved from the cane field, some were retrieved from the residence of the two accused and some were retrieved from a third party.
5. The first accused is currently serving a sentence of 5 months partial prison sentence imposed on 19 December 2022 for burglary and theft (Cr Case No 619 of 2022). He has one other previous conviction for assault in 2013.
6. In mitigation the first accused said that he was 33 years old and married with 3 children. He seeks mercy and is remorseful for his conduct.
7. In mitigation the second accused said that he was 20 years old and married. He has been in custody on remand for 3 months. He is a first time offender and is remorseful for his crime.
8. Aggravated burglary is a serious offence. The statutory aggravation is that the offence is committed by two or more people acting together. The maximum penalty for the offence is 17 years imprisonment. Theft attracts a maximum penalty of 10 years imprisonment.
9. When a home is burgled the main purpose of sentence is denunciation and deterrence. As this Court said in **State v Takalaibau** - Sentence [2018] FJHC 505; HAC154.2018 (15 June 2018):

[10] Burglary of home must be regarded a serious offence. A home is a private sanctuary for a person. People are entitled to feel safe

and secure in their homes. Any form of criminal intrusion of privacy and security of people in their homes must be dealt with condign punishment to denounce the conduct and deter others.

10. I am mindful of the sentencing guidelines for burglary offences enunciated by the Court of Appeal in **Kumar v State** [2022] FJCA 164; AAU117.2019 (24 November 2022).
11. In the present case, the level of harm caused to the victims are low. They were not present when their home was burgled. The stolen items were of high value but most of the items have been recovered. The house was not damaged or ransacked. The applicable starting point is 3 years imprisonment and the range is 1-5 years imprisonment.
12. I pick the same starting point of 3 years for both accused.
13. The second accused's mitigating circumstances are different than the mitigating circumstances of the first accused. The second accused is a young and a first time offender who is genuinely remorseful.
14. The first accused has entered early guilty plea and has expressed remorse as well.
15. The aggravating factors are that the offence was committed at nighttime in a rural community. Home owners in isolated rural communities are vulnerable.
16. Both accused are convicted and sentenced as follows:

First accused – aggregate sentence of 2 years imprisonment with a non-parole period of 12 months to be served concurrently with his pre-existing sentence (remand period incorporated in the pre-existing sentence).

Second accused – aggregate sentence of 12 months imprisonment, less 3 months to reflect the remand period. Remaining term to serve is 9 months imprisonment.

17. I have considered suspension and have decided against it. Home invasion burglaries are too prevalent in our community and therefore the courts have a duty to protect the public from this type of crime.

18. All recovered stolen items are restored to the owner.



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Hon. Mr. Justice Daniel Goundar

**Solicitors:**

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