

**IN THE HIGH COURT OF FIJI**

**AT LAUTOKA**

**[CRIMINAL JURISDICTION]**

**CRIMINAL CASE NO: HAC 161 of 2022**

**STATE**

**V**

**LORIMA KRISTIAN VOREQE**

**Counsel:** Ms. Sheenal Swastika for the State  
Ms. Keli Vulimainadave with Ms. Losana Taukei for the Accused

**Sentence Hearing:** 6 March 2023 and 29 March 2023

**Sentence:** 13 April 2023

## **SENTENCE**

[1] Lorima Kristian Voreqe, as per the Information filed by the Director of Public Prosecutions (DPP), you were charged with the following offences:

### **COUNT ONE**

#### ***Statement of Offence***

**AGGRAVATED ROBBERY:** Contrary to Section 311 (1) (a) of the Crimes Act 2009.

#### ***Particulars of Offence***

**LORIMA KRISTIAN VOREQE**, on the 8<sup>th</sup> day of October 2022, at Kavoca, Sigatoka, in the Western Division, robbed one **DEO KAUR** of 1 x Ruio Mobile Phone and \$100 cash, the property of **DEO KAUR** and at the time of such robbery had an offensive weapon, namely a cane knife.

## COUNT TWO

### *Statement of Offence*

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

### *Particulars of Offence*

**LORIMA KRISTIAN VOREQE**, on the 8<sup>th</sup> day of October 2022, at Kavoca, Sigatoka, in the Western Division, dishonestly appropriated 1 x Black HP Laptop and 1 x Nike Bag, the properties of **SHAMAL SUMIT SINGH** with the intention to permanently deprive **SHAMAL SUMIT SINGH** of the said properties.

- [2] On 8 November 2022, the DPP filed the Information in Court, while the Disclosures relevant to the case had been filed in Court on 7 November 2022.
- [3] Lorima Kristian Voreqe, on 30 November 2022, you were ready to take your plea. On that day you pleaded not guilty to count one and you pleaded guilty to count two against you in the Information. This Court was satisfied that you pleaded guilty to count two on your own free will and free from any influence. Court found that you fully understood the nature of the charge against you and the consequences of your guilty plea.
- [4] Thereafter, the State filed the Summary of Facts. On 28 December 2022, the Summary of Facts were read out and explained to you and you understood and agreed to the same. Accordingly, Court found your guilty plea to count two to be unequivocal. I found that the facts support all elements of the count of Theft in the Information, and found the said count proved on the Summary of Facts agreed by you. Accordingly, I found you guilty on your own plea and I convicted you of the charge of Theft.
- [5] Lorima Kristian Voreqe, I now proceed to pass sentence on you.
- [6] The Summary of Facts filed by the State in respect of count two was as follows:

### **"BACKGROUND**

**ACCUSED:** *Lorima Kristian Voreqe, 21 years old of Qwali Settlement, Sigatoka, Hairdresser.*

**COMPLAINANT:** *Shamal Sumit Singh, 23 years old of Kavoca Settlement, Sigatoka, Student.*

*The accused person is charged with one count of Aggravated Robbery and one count of Theft. The accused person has pleaded guilty to count 2.*

## **OFFENCE**

*On the 6<sup>th</sup> day of October 2022, the complainant Shamal Sumit Singh returned to Sigatoka from Suva. On this day the complainant went to his grandmother's place at Naroro, Sigatoka and put his 1 x Black HP Laptop and 1 x Nike Bag.*

*On the 8<sup>th</sup> of October 2022, the accused entered into the complainant's grandmother (Deo Kaur)'s house and took the 1 x Black HP Laptop and 1 x Nike Bag. After picking up the complainant's items, the accused escaped. The complainant was informed by his grandmother that his items had been stolen from her house.*

*The matter was reported to the Sigatoka Police Station by the complainant's grandmother where the investigations were conducted.*

## **CAUTION INTERVIEW AND THE CHARGE**

*The accused person was arrested and interviewed under caution. The accused person has made admissions in question and answer 62, 73 and 74 where he has stated:*

*Q62: What staff did you take from the old lady's house?*

*A: 1 x mobile phone touch screen branded (Ruio), 1 x Nike Bag.*

*Q73: When you open the bag what was inside?*

*A: 1 x Laptop HP with charger and mouse, 1 x white shirt and black vest.*

*Q74: Where did you take the laptop to?*

*A: I throw it in the river.*

*Q75: Which river?*

*A: Sigatoka River.*

*During investigation, 1 x Nike bag was recovered and thereafter the accused was formally charged."*

**[7]** Lorima Kristian Voreqe, you have admitted to the above Summary of Facts and taken full responsibility for your actions.

**[8]** Section 4(1) of the Sentencing and Penalties Act No. 42 of 2009 ("Sentencing and Penalties Act") stipulates the relevant factors that a Court should take into account during the sentencing process. The factors are as follows:

*4. — (1) The only purposes for which sentencing may be imposed by a court are —*

*(a) to punish offenders to an extent and in a manner which is just in all the circumstances;*

*(b) to protect the community from offenders;*

*(c) to deter offenders or other persons from committing offences of the same or similar nature;*

*(d) to establish conditions so that rehabilitation of offenders may be promoted or facilitated;*

*(e) to signify that the court and the community denounce the commission of such offences; or*

*(f) any combination of these purposes.*

[9] I have duly considered the above factors in determining the sentence to be imposed on you.

[10] In terms of Section 291 (1) of the Crimes Act “A person commits a summary offence if he or she dishonestly appropriates property belonging to another with the intention of permanently depriving the other of the property”. The offence of Theft in terms of Section 291 (1) of the Crimes Act carries a maximum penalty of 10 years imprisonment.

[11] In *Ratusili v. State* [2012] FJHC 1249; HAA011.2012 (1 August 2012); His Lordship Justice Madigan proposed the following tariff for the offence of Theft:

*“(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.”*

[12] Since the theft in this case involved property of a reasonably high value, and was consequent to you entering the residential premises of the complainant’s grandmother, this cannot be considered as theft simpliciter. Therefore, it is my opinion that the appropriate tariff in this case should be in the range of 2 months to 3 years imprisonment for the offence of Theft.

[13] In determining the starting point within a tariff, the Court of Appeal, in *Laisiasa Koroivuki v State* [2013] FJCA 15; AAU 0018 of 2010 (5 March 2013); has formulated the following guiding principles:

*“In selecting a starting point, the court must have regard to an objective seriousness of the offence. No reference should be made to the mitigating and aggravating factors at this time. As a matter of good practice, the starting point should be picked from the lower or middle range of the tariff. After adjusting for the mitigating and aggravating factors, the final term should fall within the tariff. If the final term falls either below or higher than the tariff, then the sentencing court should provide reasons why the sentence is outside the range.”*

[14] In the light of the above guiding principles, and taking into consideration the objective seriousness of the offence, Lorima Kristian Voreqe, I commence your sentence at 6 months imprisonment for the second count of Theft.

[15] Lorima Kristian Voreqe, the aggravating factors in this case are as follows:

- (i) The frequent prevalence of these offences in our society today.
- (ii) You entered into the residential premises of the complainant’s elderly grandmother thereby paying complete disregard to the property rights of its owners.
- (iii) I find that the act of stealing the complainant’s property was opportunistic.
- (iv) As per the victim impact statement of the complainant it is recorded that this offence has greatly affected him emotionally, since his Laptop (which he had purchased for \$1,500.00) was stolen from him. The said Laptop contained all his University assignments which he had to submit to his Lecturer. The complainant had stated that he suffered from mental trauma since it took a lot of time and effort in doing the said assignments. However, all his hard work and dedication of an entire semester’s work was in vain.

[16] Lorima Kristian Voreqe, in mitigation you have submitted as follows:

- (i) That you are a young first offender and that you have no previous convictions to date. The State too confirms that there are no previous convictions recorded against you.
- (ii) That you fully co-operated with the Police when you were taken in for questioning and subsequently charged instead of trying to circumvent the course of justice.

- (iii) You have submitted that you are truly remorseful of your actions. You have promised not to re-offend and said you are willing to reform.
- (iv) The Nike bag had been recovered.
- (v) You have agreed to compensate the complainant in the sum of \$700.00 for the loss of his Laptop, if you are granted reasonable time to do so.
- (vi) That you entered a guilty plea at an early stage of these proceedings.

[17] Considering the aforementioned aggravating factors, Lorima Kristian Voreqe, I increase your sentence by a further 4 years. Now your sentence for count two would be 4 years and 6 months imprisonment.

[18] Lorima Kristian Voreqe, I accept that you are a young first offender and that you have fully co-operated with the Police in this matter. I also accept your remorse as genuine and the fact that you have promised not to re-offend and undertaken to reform. I also wish to give credit to you for the fact that you (and your father) have agreed to compensate the complainant in the sum of \$700.00 for the loss of his Laptop. Accordingly, considering these mitigating factors, I deduct 2 years and 6 months from your sentence. Now your sentence for count two would be 2 years imprisonment.

[19] Lorima Kristian Voreqe, I accept that you entered a guilty at an early stage of these proceedings. In doing so, you saved precious time and resources of this Court. For your early guilty plea I grant you a further discount of 8 months.

[20] In the circumstances, Lorima Kristian Voreqe, I sentence you to 16 months imprisonment for the offence of Theft, contrary to Section 291 (1) of the Crimes Act.

[21] The next issue for consideration is whether your sentence should be suspended.

[22] Section 26 of the Sentencing and Penalties Act provides as follows:

(1) *On sentencing an offender to a term of imprisonment a court may make an order suspending, for a period specified by the court, the whole or part of the sentence, if it is satisfied that it is appropriate to do so in the circumstances.*

(2) *A court may only make an order suspending a sentence of imprisonment if the period of imprisonment imposed, or the aggregate period of imprisonment where the offender is sentenced in the proceeding for more than one offence,—*

*(a) does not exceed 3 years in the case of the High Court; or*

*(b) does not exceed 2 years in the case of the Magistrate's Court.*

[23] Lorima Kristian Voreqe, you are now 21 years of age [Your date of birth being 27 May 2001]. You are said to be single and residing with your parents at Qwali, Lawaqa, Sigatoka. You are said to be a Hairdresser by occupation and also doing farming earning approximately \$100.00 a week. You have admitted to the Summary of Facts and taken full responsibility for your actions.

[24] In *Singh & Others v. State* [2000] FJHC 115; HAA 79J of 2000S (26 October 2000); Her Ladyship Madam Justice Shameem held:

*"...However as a general rule, leniency is shown to first offenders, young offenders, and offenders who plead guilty and express remorse. If these factors are present then the offender is usually given a non-custodial sentence."*

[25] In *Nariva v. The State* [2006] FJHC 6; HAA 148J.2005S (9 February 2006); Her Ladyship Madam Justice Shameem held:

*"The courts must always make every effort to keep young first offenders out of prison. Prisons do not always rehabilitate the young offender. Non-custodial measures should be carefully explored first to assess whether the offender would acquire accountability and a sense of responsibility from such measures in preference to imprisonment."*

[26] Lorima Kristian Voreqe, you are a young first offender with previous good character. You have fully cooperated with the Police in this matter and you have accepted responsibility for your conduct. You have submitted that you are truly remorseful of your actions and promised not to re-offend and stated that you are willing to reform. You have agreed to compensate the complainant in the sum of \$700.00 for the loss of his Laptop. You entered a guilty plea at an early stage during these proceedings. Furthermore, you have been in remand custody for this case since 8 October 2022, the day you were arrested for this case and subsequently remanded into custody. That is a period of over 6 months. For these reasons, it is my opinion that the chances for your rehabilitation is high. Therefore, I deem it appropriate to suspend your sentence.

[27] However, in order to deter you and other persons from committing offences of the same or similar nature, and also to protect the community we live in, I suspend your sentence for a period of 5 years.

[28] In the result, Lorima Kristian Voreqe, your final sentence of 16 months imprisonment, is suspended for a period of 5 years. You are advised of the effect of breaching a suspended sentence.

[29] In addition, in terms of Section 49 of Sentencing and Penalties Act, I order that Lorima Kristian Voreqe you pay a sum of \$700.00 in restitution to compensate the loss suffered by the complainant. From this sum, \$100.00 to be deposited in the High Court Criminal

Registry, Lautoka today. The balance sum of \$600.00 should be paid in 3 monthly instalments of \$200.00 each at the High Court Criminal Registry, Lautoka. These sums shall be payable on or before 13 May 2023, 13 June 2023 and 13 July 2023 respectively. The full sum of \$700.00 should be paid and completed by 13 July 2023.

[30] Upon this sum of \$700.00 being deposited at the High Court Criminal Registry, Lautoka, the complainant in this case Mr. Shamal Sumit Singh will be entitled to withdraw the said sum of money.

[31] You have 30 days to appeal to the Court of Appeal if you so wish.

[32] I also make order that the Nike bag which was recovered by the Police during the course of the investigations, to be released forthwith to the complainant in this case Mr. Shamal Sumit Singh.



  
Riyaz Hamza  
**JUDGE**  
**HIGH COURT OF FIJI**

AT LAUTOKA

Dated this 13<sup>th</sup> Day of April 2023

**Solicitors for the State:**  
**Solicitors for the Accused:**

**Office of the Director of Public Prosecutions, Lautoka.**  
**Office of the Legal Aid Commission, Lautoka.**