

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

**CRIMINAL CASE NO: HAC 177 OF 2020**

**STATE**

**V**

- 1. MOSESE LUMA**
- 2. URAIA NATALIGA**
- 3. ALIVERETI NAUCA**

Counsel: Mr L Baleilevuka for Prosecution  
Ms L. Volau for 1<sup>st</sup> Accused  
Ms Priyanka for 2<sup>nd</sup> Accused  
Ms L Taukei for 3<sup>rd</sup> Accused

Date of Judgment : 25 March 2024  
Date of Sentence. : 28 March 2024

**SENTENCE**

1. The three offenders, Mr Mosese Luma (Luma), Mr Uraia Nataliga (Uraia) and Mr Alevereti Nauca (Nauca) were jointly charged with one count of Manslaughter. After a contested trial, the Court found the evidence insufficient to prove the charge of Manslaughter and found them guilty of Assault Occasioning Actual Bodily Harm contrary to Section 275 of the Crimes Act 2009. Having been convicted, the offenders are now before this Court to receive their sentences.

2. The victim in this matter is Mr Savenaca Nakuta (50). He was driving his car along the highway, heading to Rakiraki with his son. When they were on their way close to Nakorokula at around 9 p.m., they saw a group of drunkards sitting beside the road. One of them suddenly came onto the road and was hit by the car driven by the victim. The car dodged that man and drove towards an electric post. The victim turned around his car and came back slowly to see what had happened to the man who was hit. The 2<sup>nd</sup> Offender Uraia approached them and pulled the (steering) wheel of the moving car. When the car stopped, Uraia punched the victim once in his head when the victim was still sitting in the driver's seat. Upon being punched, the victim stopped the car and pursued Uraia. The 3<sup>rd</sup> Offender Nauca intervened and punched the victim in his head once and twice in the stomach. When the victim was coming back to the car to see his son, the 1<sup>st</sup> Offender Luma also punched the deceased. The victim came near the car and lied down. He was taken to the hospital. Upon admission to the hospital, the victim was pronounced dead.
3. At the postmortem, the doctor observed only superficial tears on the lips and linear abrasions over the head. No internal injuries or hemorrhages on the brain were noted. The immediate and antecedent causes of death were heart diseases. The doctor could not find any medical condition that was linked to a physical attack except the stress associated with such an attack. In coronary arteries that supply the blood to the heart muscles showed severe atheroma with areas of occlusion up to 90 per cent, most likely to have been caused by a pre-existing cardiac condition of which the victim could have died at any moment.
4. The maximum sentence for Assault Occasioning Actual Bodily Harm is 5 years imprisonment. The tariff for this offence ranges from an absolute or conditional discharge to 12 months imprisonment. *State v Tugalala* [2008] FJHC 78; (29 April 2008) *Elizabeth Joseph v. The State* [2004] HAA 030/04S and *State v. Tevita Alafi* [2004] HAA073/04S.
5. It is the extent of the injury which determines the sentence. The victim had received only superficial injuries. No weapon had been used. However, the punch on the head justifies a higher starting point. No provocation was offered by the victim. The assault had been deliberate, causing hospitalization. However the victim died of a heart disease.

6. It is aggravating that the offenders committed this offence having consumed alcohol. After a minor road accident, they took law into their own hands and punched an innocent man in public in the full view of his son. These factors indicate that the offenders deserve a custodial sentence.
7. Mr. Luma is 35 years old labourer. He is married with two children and the sole breadwinner of the family. He has spent approximately 4 months in remand custody. He has no previous convictions. He deserves a imprisonment term of 9 months.
8. Mr. Uraia is also 35 years old single father of a daughter. He is currently unemployed. He has three previous convictions. He is alleged to have committed another offence whilst on bail and is remand in that matter. He is the one who initiated the fight. He deserves a sentence of 12 months imprisonment.
9. Mr. Nauca is 30 years old. He is married with three children. He is a barber by profession. He has no previous convictions. He has spent 4 months in the remand centre. He deserves a sentence of 9 months imprisonment.
10. Summary


The 1<sup>st</sup> Offender Mr Mosese Luma is sentenced to 09 months' imprisonment.

The 2<sup>nd</sup> Offender Mr Uraia Nataliga is sentenced to 12 months' imprisonment

The 3<sup>rd</sup> Offender Mr Alevereti Nauca is sentenced to 09 months' imprisonment.

11. 30 days to appeal to the Court of Appeal.



  
Aruna A Luthge  
Judge

28 March 2024

At Lautoka

Solicitors:

Office of the Director of Public Prosecutions for State

Legal Aid Commission for Defence