

IN THE RESIDENT MAGISTRATE'S COURT OF FIJI
AT NAVUA

Criminal Case No: - 223/2013

STATE

V

AMINIASI DANFORD

For Prosecution : - Sgt. Lenaitasi

Accused : - In person

SENTENCE

1. **AMINIASI DANFORD**, you were charged in this Court for the offence of Theft contrary to section 291(1) of the Crimes Decree No. 44 of 2009.
2. You waived right to counsel and pleaded guilty for the above offence on 01 July 2013. You also admitted the summary of facts.
3. Summary of facts showed that between the 28 June 2013 and 29 June 2013, at Vakabalea , Navua in the Central Division you dishonestly appropriated (stole) 95 dalo plants to the value of \$190.00, the property of Anuj Mishra.
4. This Court is satisfied about your plea and convicts you for the above offence.

The Law and the Tariff for Theft

5. Section 291 of the Crimes Decree sets down the maximum penalty for this offence as 10 years imprisonment.
6. In **Jone Saukilagini [2005]FJHC 13** Her Ladyship Justice Shameem held that “**the tariff for simple larceny on a first conviction is from two to nine months. In cases of larceny of large amount of money sentence of 18 months to three years have been upheld by the High Court**”

Aggravating factors

7. You stole these from a farm. By your action you showed you have no respect for the people who worked hard to grow these in the land.

Mitigating factors

8. You submitted following as mitigating factors.
 - I. 35 years old
 - II. Married with 02 small children
 - III. Most of the stolen properties recovered.
9. I select 12 months as my starting point and add 06 months for aggravating factor. Deduct 03 months for mitigating factors. Also deduct 1/3 from your sentence to reach 10 months. You are not a first offender and not entitled for any discounts for your good behavior. Now your final sentence would be 10 months imprisonment.
10. This Court has the power to suspend a sentence which does not exceed a 02 years under section 26(2) (b) of the Sentencing and Penalties Decree.
11. You are not a first offender. Most of your previous convictions are for similar kind of offences which shows that you have not learned any lesson from your past. But considering the value of the stolen properties as well as your children I am prepared to partly suspend your sentence allowing you to reform as well.
12. Accordingly I sentence you to 10 months imprisonment. From that you have to serve 04 months in prison and remaining 06 months will be suspended for 03 years.
13. If you commit any offence punishable by prison sentence during the operational period (03 years) you can be charged under sec 28 of the Sentencing and Penalties Decree.
14. 28 days to appeal

05 July 2013

H. S. P. Somaratne
Resident Magistrate, Navua

