

**IN THE MAGISTRATE'S COURT AT SAVUSAVU**  
**CRIMINAL JURISDICTION**

*Criminal Case No. 90 of 2016*

STATE

v

TEISI TIMOTEO

For the Prosecution : CPL Qolitabua  
For the Accused : In Person  
  
Sentence : 2 March 2018

**SENTENCE**

1. The accused, Teisi Timoteo, you are before this court to be sentenced for one count of *Theft* contrary to *section 291(1)* of the *Crimes Act*.
2. On 31 August 2016, you waived your rights to counsel and you pleaded guilty to the charge on your own free will. I find your plea to be unequivocal.
3. The brief summary of facts are;-  
*"Between 1 to 31 September 2015, the accused Teisi Timoteo uprooted and stole 10 plants of green yaqona valued \$500.00 from the farm of Neneia Buaba at Bani farming flats at Bani Settlement, Rabi Island."*
4. You admitted to have the above summary of facts on 31 August 2016, and convicted as charged. You submitted oral mitigation on the same day.

5. The maximum penalty for *Theft* is 10 years imprisonment. In the case of **Ratusili v State** [2012] FJHC 1249; HAA011.2012 (1 August 2012), the High Court set the tariff as follows:-
  - a) *First offence of simple theft, sentence range between 2 and 9 months;*
  - b) *Any subsequent offence, attracts penalty at least 9 months;*
  - c) *Theft of large sum of money and theft in breach of trust, whether first offence or not attract sentences of up to 3 years.*
  - d) *Planned thefts attract greater sentence than opportunistic thefts.*
  
- a. The aggravating factor is that you deny the victim to enjoy the fruit of his hard work and sweat.
  
6. The compelling mitigating factors are:-
  - a. *First Offender,*
  - b. *Young offender of 29 years old,*
  - c. *Seeking the court forgiveness,*
  - d. *Promise not to re-offend.*
  
7. This is a planned theft and not a simple theft. For your sentence, I pick 1 year as my starting point. I add 1 year for the aggravating factor and that increase your sentence to 2 years imprisonment. I reduce 8 months for your mitigation and that reduce your sentence to 1 year and 4 months imprisonment.
  
8. You entered and early guilty and you are entitle for a one third reduction, which is 5 months. I now reduce 5 months for your early guilty plea and that reduce your sentence to 11 months imprisonment.
  
9. In this sentence I have considered and take note of *section 4* of the *Sentence and Penalties Act*. In doing so, I also reminded myself of *Goundar. J*, decision in **State v Filipe Ratusuka & Others**, *High Court, Criminal Appeal No. HAA 001 of 2013 (7 March 2013)*, where his Lordship stated that animal and farm theft are considered as a serious offence and immediate custodial sentence should be imposed.

10. This Court is bound by this decision in **Ratusuka** (*supra*), therefore, suspended sentence is not an option in this case.
11. In this sentence, I have considered the principle of rehabilitation, however, yaqona theft is very frequent in the Northern Division and deterrent sentence both specific and general need to be issued to denounce theft of yaqona in Vanua Levu.
12. Teisi Timoteo, your final sentence is 11 months imprisonment. I now order that you are to serve your sentence with immediate effects.

28 days to appeal.



C. M. Tuberi  
RESIDENT MAGISTRATE