

IN THE MAGISTRATE'S COURT AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. 601 of 2017

STATE

v

- 1. PENI TURAGA**
- 2. JOELI BETEURATA**

For the Prosecution : **PC Lal**
For both the Accused : **Mr Korotini. J**

Sentence : **31 January 2018**

SENTENCE

1. The accused, *Peni Turaga* and *Joeli Beteurata*, you are both before this Court to be sentenced for two counts of *Theft* under *section 291* of the *Crimes Act*.
2. On 9 January 2018, both of you pleaded guilty to the charges on your own free will and in the presence of your counsel. I find your plea to be unequivocal.

3. The brief summary of facts are;-

“Between 16 and 27 November 2017, at Satulaki village, Cakaudrove, the accused *Peni Turaga* and *Joeli Beteurata* stole 10

of Semi Kalouniviti and 3 years green yagona plants valued \$300.00, the property of Filipe Busi. There was no recovery."

4. On 9 January 2018, both of you admitted to the summary of facts and convicted as charged for both the counts. You submitted your 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.*
6. The only aggravating factor is that it was a joint enterprise to deprive the victim from the fruit of his sweat and hard work.
7. The compelling mitigating factors for both the accused are:-
 - a. *First Accused is a young offender,*
 - b. *Both first offender,*
 - c. *Very remorseful and seek the court forgiveness.*
8. This is a planned theft and not a simple theft. For both your sentence, I pick 12 months as my starting point. I add 6 months for the aggravating factors. That increase both your sentence to 1 year and 6 months imprisonment. I reduce 6 months for the mitigation. That reduce both your sentence to 12 months imprisonment. I further reduce 4 months as your one third entitlement for your early guilty plea. That reduce your sentence to 8 months imprisonment.
9. I noted from the record that both of you were in remand for this case for about 4 weeks, I will reduce that 4 weeks from your sentence and that reduce your sentence to 7 months imprisonment.

10. In *State v Filipe Ratusuka & others*, High Court, Criminal Appeal No. HAA 001 of 2013 (7 March 2013) Goundar. J, stated that animal and farm theft are considered as a serious offence and immediate custodial sentence should be imposed. In light of this decision, I find that this is not an appropriate case for suspended sentence.

11. *Peni Turaga* and *Joeli Beteurata*, I now sentence both of you as follows;-

- a. Count 1 - Theft - 7 months imprisonment.
- b. Count 2 - Theft - 7 months imprisonment.
- c. Sentence for both the counts to be served concurrently with immediate effects.

28 days to appeal.



C. M. Tuberi
RESIDENT MAGISTRATE