

IN THE MAGISTRATES' COURT OF FIJI

AT SUVA

Criminal Case No: - 898/2025

STATE

V

EPELI QAQA

For the Prosecution : Sgt Shailend

The accused: In person

Date of Judgment: 13th August 2025

Date of Sentence: 15th August 2025

SENTENCE

1. EPELI QAQA, you were convicted after a hearing of one count of Damaging Property, contrary to section 369(1) of the Crimes Act,¹ and one count of Theft, contrary to section 291(1) of the Crimes Act.
2. During the hearing, it was proven that on 03/06/2025, you, along with another person, broke the left rear window of vehicle JG 703 and stole a bag and other items belonging to the complainant. A police officer, having witnessed the incident, arrested you at the scene, while the other person managed to escape. You denied the offence and attempted to shift the blame to the other person; however, this Court found that you committed these offences.
3. The maximum sentence for Damaging Property is two years' imprisonment. In Singh v State,² the court held that the sentencing tariff ranges from 6 to 18 months.
4. The prescribed penalty for Theft is 10 years' imprisonment.
5. In Ratusili v State,³ His Lordship Justice Madigan held that for a first offence of simple theft, the sentencing range should be between 2 and 9 months, while any subsequent offence should attract a minimum penalty of 9 months.

¹ No 44 of 2009.

² [2014] FJHC 191; HAA024.2013S (21 March 2014).

6. Section 17 of the Sentencing and Penalties Act⁴ provides:

“If an offender is convicted of more than one offence founded on the same facts, or which form a series of offences of the same or a similar character, the court may impose an aggregate sentence of imprisonment in respect of those offences that does not exceed the total effective period of imprisonment that could be imposed if the court had imposed a separate term of imprisonment for each of them.”

7. The offences for which you were convicted were committed as part of the same transaction. Therefore, I will impose an aggregate sentence of imprisonment for these counts, pursuant to Section 17 of the Sentencing and Penalties Act.
8. Considering the objective seriousness of the offences and your previous convictions for theft offences, I select 9 months as the starting point for your aggregate sentence.
9. The offences were committed in broad daylight in a public place. I consider these to be aggravating factors, warranting an enhancement of your sentence by 6 months, bringing the total to 15 months' imprisonment.
10. I do not find any significant mitigating factors in this case. You are not a young offender (being 30 years old) nor a first-time offender. You also did not plead guilty and convicted after a hearing. Hence, I deduct only 03 months from your sentence.
11. For the period you spent on remand (04/06/25 – 10/07/25), I deduct 1 month, resulting in a final sentence of 11 months' imprisonment.⁵
12. This Court has consistently emphasized that the public must feel safe leaving their property in their vehicles while attending to daily activities. Offenders who break into vehicles and steal must be dealt with firmly to deter others and protect the community.
13. As for you, the prosecution has submitted your previous convictions, which show 13 active previous convictions(PCs) since 2017. The majority of these (10) are property-related offences, demonstrating a pattern of offending. This indicates

³ 2012] FJHC 1249; HAA011.2012 (1 August 2012).

⁴ No 42 of 2009.

⁵ S 24. Sentencing and Penalties Act.

that a deterrent sentence is necessary to protect the public as well as to denounce your behavior.

14. EPELI QAQA, accordingly, I sentence you to 11 months' imprisonment for this charge.

15. 28 days to appeal

