

**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**CRIMINAL JURISDICTION**

**CRIMINAL CASE NO. HAC 283 OF 2012S**

**STATE**

**vs**

- 1. SITIVENI TUISAMOA**
- 2. SAMUELA BEEBY**
- 3. ALIPATE LESI**
- 4. PENI TUILASELASE**

**Counsels** : **Mr. Y. Prasad for the State**  
**Ms. T. Leweni for Accused No. 1**  
**Accused No. 2 in Person**  
**Mr. E. Koroi for Accused No. 3**  
**Accused No. 4 in Person**

**Hearings** : **22 to 25, 28 to 30 April, 1, 2, 5 to 9, 12 and 13 May, 2014**

**Summing Up** : **14 May, 2014**

**Judgment** : **15 May, 2014**

**Sentence** : **16 May, 2014**

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**SENTENCE**

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1. In a judgment delivered yesterday, all of you were found guilty and convicted, on the following information:

**COUNT 1**

**Statement of Offence**

**AGGRAVATED ROBBERY:** *Contrary to section 311 (1) (a)(b) of the Crimes Decree No. 44 of 2009.*

**Particulars of Offence**

**SITIVENI TUISAMOA, SAMUELA BEEBY, ALIPATE LESI and PENI TUILASELASE** on the 25<sup>th</sup> day of July 2012 at Davuilevu Housing, Nasinu in the Central Division being armed with pinch bars and cane knives robbed one **RAM** with cash of \$5010.00, 2 laptop computers valued at \$4,400.00, assorted jewelleries valued at \$12,800 and mobile phones valued at \$2,400.00 to total value of \$24,610.00 the properties of the said **RAM**.

**COUNT 2**

**Statement of Offence**

**THEFT OF MOTOR VEHICLE:** *Contrary to section 291(1) of the Crimes Decree No. 44 of 2009.*

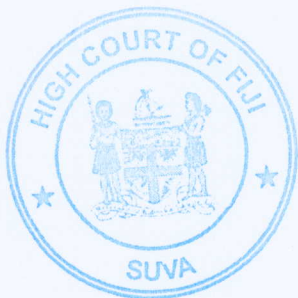
**Particulars of Offence**

**SITIVENI TUISAMOA, SAMUELA BEEBY, ALIPATE LESI and PENI TUILASELASE** on the 25<sup>th</sup> day of July 2012, at Davuilevu Housing, Nasinu in the Central Division, stole a motor vehicle registration GCEP 01 valued at \$30,000.00 the property of **RAM**.

2. The facts were somewhat disturbing. All of you were involved in a group that terrorized Mr. Ram and his family, on the early hours of 15 July 2012. You all planned to raid the complainant's house after 3am. You met, planned the raid, and moved towards Mr. Ram's house, and lay in wait. At the designated hour, you cut Mr. Ram's fence, unlawfully entered his compound, and forced yourselves into the house, through the front door. The Rams were terrified of their lives. You were all armed with pinch bars, cane knives and a bolt cutter. You assaulted and injured Mr. Ram and his son. You ransacked their home, and stole \$24,610 worth of properties. You then stole his car, and used the same as a get-away vehicle.

3. "Aggravated Robbery" carries a maximum sentence of 20 years imprisonment. It is considered a serious offence by the law makers of this country. As to the tariff for this offence, I agree with His Lordship Mr. Justice D. Goundar's comments in **State v Manoa**, Criminal Case No. 108 of 2009 and 061 of 2010, High Court, Suva, wherein His Lordship set the tariff between 8 to 14 years imprisonment.
4. "Theft of a Motor Vehicle" carries a maximum sentence of 10 years imprisonment. Recent case laws appear to set the tariff between a suspended prison sentence to 3 years imprisonment: **State v Mucunabitu & Others**, Criminal Case No. HAC 017 of 2010L, High Court, Lautoka; **State v Vikatore Tabeusi**, Criminal Case No. HAC 095 of 113 of 2010L, High Court, Lautoka; **Josevati Nakadi v State**, Criminal Appeal No. HAA 32 of 2010S, High Court, Suva. The actual sentence will depend on the aggravating and mitigating factors.
5. In this case, the aggravating factors were as follows:
  - (i) This violent robbery was well planned and executed;
  - (ii) The level of violence used against the complainants (ie. PW1, PW2 and PW3) were serious and unpleasant. PW1 and PW2 were repeatedly punched and injured. The whole family was threatened with pinch bars, cane knives and a bolt cutter;
  - (iii) \$24,610 worth of properties were stolen and never recovered. Their car worth \$30,000 was extremely damaged when recovered from Lautoka;
  - (iv) The accuseds showed no regard whatsoever for this family's right to exist peacefully in their house, and by offending against them, showed no regard to their rights as human beings.
6. The mitigating factor is as follows:
  - (i) The accused have been remanded in custody for approximately 1 year 9 months, since 14 August 2012
7. On Count No. 1, on each accused, I start with a sentence of 11 years imprisonment. I add 5 years for the aggravating factors, making a total of 16 years imprisonment. For the mitigating factors, I deduct 2 years, leaving a balance of 14 years imprisonment.

8. On Count No. 2, I start with 1 year imprisonment. I add 2 years for the aggravating factors, making a total of 3 years imprisonment. I deduct 1 year for the mitigating factors, leaving a balance of 2 years imprisonment.
9. In summary, your sentences are as follows:
- (i) Count No. 1 : Aggravated Robbery : Each accused is sentenced to 14 years imprisonment.
- (ii) Count No. 2 : Theft of a Motor Vehicle : Each accused is sentenced to 2 years imprisonment.
10. Because of the totality principle of sentencing, the above sentence are concurrent to each other, so that, the final total sentence for each accused is 14 years imprisonment.
11. Sitiveni Tuisamoa, Samuela Beeby, Alipate Lesi and Peni Tuilaselase, you have deliberately chosen to live outside the law by attacking the Ram's family in the early hours of 25 July 2012, and stealing their car. The people of Fiji need to sleep peacefully in their house without being attacked by people like you. Educational and commercial farming opportunities are now available for people like you. Choosing a criminal career will only lead you to losing the above opportunities, and losing your liberties. I sentence each of you to 14 years imprisonment, with a non-parole period of 12 years, effective forthwith.



  
**Salesi Temo**  
**JUDGE**

**Solicitor for the State** : **Office of the Director of Public Prosecution, Suva.**  
**Solicitor for Accused No. 1** : **T. Leweni, Barrister & Solicitor, Suva**  
**Solicitor for Accused No. 2** : **In Person**  
**Solicitor for Accused No. 3** : **E. Koroi, Barrister & Solicitor, Suva**  
**Solicitor for Accused No. 4** : **In Person**