

IN THE HIGH COURT OF FIJI AT SUVA

CASE NO: HAC. 119 of 2018

[CRIMINAL JURISDICTION]

STATE

V

EMORI LATIBAU

Counsel : Ms. M. Chowdhury for State  
Ms. L. David for Accused

Hearing on : 25<sup>th</sup> June 2018

Sentence on : 16<sup>th</sup> July 2018

SENTENCE

1. Emori Latibau, you stand convicted of the offence of aggravated robbery contrary to section 311 (1) of the Crimes Act 2009 upon your plea of guilty. Your charge reads thus;

*Statement of Offence*

**Aggravated Robbery:** contrary to section 311(1)(a) of the Crimes Act 2009.

*Particulars of Offence*

**EMORI LATIBAU AND OTHERS** on the 7<sup>th</sup> day of March 2018, at Suva in the Central Division in the company of each other robbed Mohammed Altaf of a wrist watch valued at \$24.00, Ripcurl school bag valued at \$16000 and containing school books, files, clothes, house key, phone charger and an \$20.00 USB, ye glasses valued at \$300.00, wallet valued at \$40.00 and containing \$40.00 cash and assorted cards and an S6 mobile phone valued at \$1200 all to the total value of

\$1784.00, the properties of Mohammed Altaf.

2. You have admitted the following facts;

**Complainant** - Mohammad Altaf, aged 20, University of Fiji, Student (hereafter PW1) residing at Lot 14, Sam Lal, Street, Bayview Heights.

**Accused** - Emori Latibau - aged 19, self-employed, residing at Jittu Estate Settlement.

On 7<sup>th</sup> March, 2018 between 8.00am to 8.30am, Emori Latibau aged 19 (hereafter "the accused") in company of another robbed PW1. PW1 was taking a shortcut from Bayview Heights to Ratu Mara Road, bus stop, right where Sakura Cars base is located. As he was walking along the road, he saw the accused and another Fijian boy sitting and talking to each other. He went past them and was suddenly attacked from the back. One of them punched his face and the back of his head, after which he blacked out and ended up in a nearby drain.

In the course of the robbery, PW1 sustained a bruise on the forehead as per the medical report annexed herewith as "AX1".

The accused in the company of another robbed PW1 of the following items:

- 1) A wrist watch valued at \$24.00,
- 2) Ripcurl school bag valued at \$160.00 and containing school books, files, clothes, house key, phone charger,
- 3) A \$20.00 USB,
- 4) Eye glasses valued at \$300.00,
- 5) Wallet valued at \$40.00 and
- 6) Containing \$40 .00 cash and assorted cards and
- 7) A S6 mobile phone valued at \$1200.

All the properties amounting to the total value of \$1784.00.

The matter was reported to the Nabua Police Station. An investigation was carried out which led to the arrest of the accused.

The accused was interviewed under caution and he admitted that he in the company of another robbed PW1. He stated that his co-accused planned the robbery and his co-accused is the one who punched PW1. The accused stated that his co-accused passed

him the bag of PW1 which he took and walked away with.

(Refer to Emori Latibau Caution Interview Q&A 24-43) annexed as "AX2.")

The following items were recovered during the reconstruction of the crime scene:

- 1) A wrist watch valued at \$24.00,
- 2) Ripcurl school bag valued at \$160.00,
- 3) Eye glasses valued at \$300.00,
- 4) An \$20.00 USB,
- 5) \$40.00 cash.

All to the total value of \$544.00.

The accused was charged with 1 count of aggravated robbery contrary to section 311(1)(a) of the Crimes Act 2009.

3. The maximum sentence for the offence of aggravated robbery contrary to section 311(1) of the Crimes Act is 20 years imprisonment. The tariff for this offence is an imprisonment term between 8 to 16 years. [*Wallace Wise v The State*, Criminal Appeal No. CAV 0004 of 2015; (24 April 2015)]
4. Explaining the aggravating circumstances of the offence of robbery with violence under the now repealed Penal Code, Goundar J said in the case of *State v Rokonabete* [2008] FJHC 226 that;  
  

*"The dominant factor in assessing seriousness for any types of robbery is the degree of force used or threatened. The degree of injury to the victim or the nature of and duration of threats are also relevant in assessing the seriousness of an offence of robbery with violence."*
5. In your mitigation your counsel had submitted that you are 19 years old and a first offender. It is said that you dropped out of school after class 8 in 2014 in order to find work to support your family. It is also submitted that you committed this


offence without comprehending the gravity of your actions and you were just following your friend who is the co-accused yet to be arrested.

6. I would select 08 years imprisonment as the starting point of your sentence.
7. I would take into account the nature of assault on the victim by the other person you teamed up with where the victim blacked out as a result of that assault as an aggravating factor to add 02 years to your sentence.
8. In view of the following mitigating factors I would deduct 04 years of your sentence;
  - a) You are a young first offender;
  - b) You are remorseful; and
  - c) You cooperated with the police.
9. Now your sentence is an imprisonment term of 06 years. You pleaded guilty to the charge on the first day your plea was taken. By pleading guilty at the earliest opportunity, you have saved this court's time. In view of your early guilty plea I would grant you a discount of 02 years which is equivalent to one-third of your sentence.
10. Accordingly, I sentence you to an imprisonment term of 04 years. I order that you are not eligible to be released on parole until you serve 02 years of that sentence pursuant to the provisions of section 18 of the Sentencing and Penalties Act.
11. As I have applied the two-tiered approach to determine your sentence, the above reasoning process that led to your final sentence clearly indicate why your final sentence is below the established tariff.
12. Section 24 of the Sentencing and the Penalties Act reads thus;

*"If an offender is sentenced to a term of imprisonment, any period of time during which the offender was held in custody prior to the trial of the matter or matters shall, unless a court otherwise orders, be regarded by the court as a period of imprisonment already served by the offender."*

13. I note that you have been in custody in view of this matter for about one month. The period you were in custody in relation to this case shall be regarded as a period of imprisonment already served by you in view of the provisions of section 24 of the Sentencing and Penalties Act. I hold that the period that should be regarded as served is 01 month.
14. In the result, you are sentenced to an imprisonment term of 04 years with a non-parole period of 02 years. Considering the time spent in custody, the time remaining to be served is as follows;
- Head Sentence - 03 years and 11 months  
Non-parole period - 01 year and 11 months
15. Thirty (30) days to appeal to the Court of Appeal.



  
Vincent S. Perera  
**JUDGE**

**Solicitors:**

**Office of the Director of Public Prosecutions for the State.  
Legal Aid Commission for the Accused.**