

IN THE HIGH COURT OF FIJI
AT SUVA
[CRIMINAL JURISDICTION]

High Court Criminal Case No. HAC 254 of 2020

BETWEEN : THE STATE

AND : ILAISA TUKAI

Counsel : Mr Zenith Zunaid for the State
Ms Sokoveti Daunivesi for the Accused

Date of plea : 09 October 2020

Date of Sentence : 03 December 2020

SENTENCE

1. You, Ilaisa Tukai are to be sentenced upon freely and voluntarily pleading guilty to the following counts;

First Count

Aggravated burglary: Contrary to Section 313(1)(a) of the Crimes Act 2009.

Particulars of offence

Ilaisa Tukai with others, in the company of each other, on the 18th day of August 2020 at Lami in the Southern Division, entered into the property of Vika Rokobuli as trespassers with intention to commit theft.

Second Count

Theft: Contrary to Section 291(1) of the Crimes Act 2009.


Particulars of offence

Ilaisa Tukai with others on the 18th day of August 2020 at Lami in the Southern Division dishonestly appropriated 1 x pink in colour pair of Addidas brand canvas shoes, 1 x black in colour Underarmour brand canvas shoes, 1 x pair of dark blue socks, 2 x money boxes containing \$ 60 cash in total and 1 x sterling silver ring , the properties of Vika Rokobuli with the intention of permanently depriving Vika Rokobuli of the said properties.

2. Having been satisfied that your plea is unequivocal and upon your admission of summary of facts, you are now convicted for the first and second counts.
3. According to the summary of facts, on 18 August 2020 with two other persons you planned to break into the house of the complainant. You removed two louver blades from the kitchen window and entered into the complainant's house while the other two were standing outside. You admitted that you stole two pairs of canvas shoes, a pair of socks and two money boxes. Later you were arrested and only a part of the stolen property was recovered.
4. You planned to commit these offences with two other persons. You had known the complainant, yet you decided to break into to his house. This kind of offences are prevalent in the society. I consider those as aggravating factors.
5. I have considered the mitigation submissions filed by your counsel.

6. You are 20 years old and married with 2 children aged 2 years and 8 months respectively. You are the sole breadwinner of the family. It was informed that you regret your actions and you have expressed remorse by tendering an early guilty plea. You have cooperated with the Police.
7. The maximum punishment for aggravated burglary is 17 years imprisonment. The tariff is 18 months to 3 years.
8. The maximum punishment for theft is 10 years imprisonment and the tariff for theft is found in **Ratusili v State** [2012]FJHC 1249 HAA011.2012 (1 August 2012) as follows;
 - i. For a first offence of simple theft the sentencing range should be between 2 and 9 months.
 - ii. Any subsequent offence should attract a penalty of at least 9 months.
 - iii. Theft of large sums of money and thefts in breach of trust, whether first offence or not can attract sentences of up to three years.
 - iv. Regard should be had to the nature of the relationship between offender and victim.
 - v. Planned thefts will attract greater sentences than opportunistic thefts.
9. The offences that you are charged with, are originated from the same transaction. Section 17 of the Sentencing and Penalties Act provides that if the offences are founded on the same facts the court can impose an aggregate sentence. Therefore, I decide to impose an aggregate sentence in respect of the first and second counts.
10. Having considered the objective seriousness of your offending I pick 2 years as the starting point for the aggregate sentence. For the aggravating factors I add 6 months. For the mitigating factors I deduct 3 months. For the early plea I give you 1/3 discount.

11. Accordingly, I impose an aggregate sentence of 18 months imprisonment on you.
12. You have been in remand custody for nearly 3 months and two weeks. I deduct 3 months and two weeks from your sentence to reflect the time you spent in custody.
13. You have 6 previous convictions, out of which 4 are for similar property offences. It does not appear that you have attempted reform yourself or learnt a lesson from your previous convictions. In view of the circumstances of this case I am not inclined to suspend your sentence.
14. Accordingly, you must serve a period of 14 months and two weeks imprisonment.
30 days to appeal to the Court of appeal.



Rangajeeva Wimalasena
Acting Judge

At Suva

03 December 2020

Solicitors

Solicitors for the State: Office of the Director of Public Prosecutions

Solicitors for the Accused: Office of the Legal Aid Commission