

**IN THE HIGH COURT OF FIJI AT SUVA**

**CASE NO: HAC. 209 of 2020**

**[CRIMINAL JURISDICTION]**

**STATE**

**V**

**IOWANE VEREMO**

**Counsel** : Mr. E. Samisoni for the State  
Ms. J. Manueli for the Accused

**Date of Sentence** : 10 December, 2020

**SENTENCE**

1. Iowane Veremo you have pleaded guilty to the charges produced below and you were convicted as charged accordingly on 19/11/20;

**FIRST COUNT**

*Statement of Offence*

**Aggravated Burglary:** contrary to Section 313(1)(a) of the Crimes Act 2009.

*Particulars of Offence*

**IOWANE VEREMO with others**, between the 12<sup>th</sup> day of February, 2020 and the 13<sup>th</sup> day of February, 2020 at Vatuwaqa, Suva in the Central Division, in the company of each other, entered as trespassers into the **FUJI XEROX BUSINESS CENTRE**, with the intent to commit theft.

**SECOND COUNT**

*Statement of Offence*

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

*Particulars of Offence*

**IOWANE VEREMO with others**, between the 12<sup>th</sup> day of February, 2020 and the 13<sup>th</sup> day of February, 2020 at Vatuwaqa, Suva in the Central Division, in the company of each other, dishonestly appropriated (stole) 4x Dell laptops, 1x ASUS laptop, 12x Samsung tablets, 2x Samsung mobile phones, 1x Hitachi amplifier, 1x Optoma projector, 3x external hard drives, 1x blue power bank, 3x Chivas Regal whisky, 2x Johnnie Walker Black Label whisky and \$950.00 cash the property of **FUJI XEROX BUSINESS CENTRE** with the intention of permanently depriving **FUJI XEROX BUSINESS CENTRE** of the said property.

2. You have admitted the following summary of facts;

***Complainants (PW1):** Nishantha Fernando, 51 years old, Operations Manager at Fuji Xerox at Vatuwaqa.*

***(PW2):** D/CPL 4701 Jekope Nakula of Nabua Police Station.*

***(PW3):** DC 3518 Sevanaia Sedra, 21 years old of Nabua Police Station.*

***(PW4):** Mika Kalougata, 34 years old, IT Officer of Veiquwaqa settlement in Raiwaqa. [uncle of A1].*

***Accused (A1):** Iowane Veremo (alias - "Kovu"), 25 years old, unemployed of Veidogo settlement, Vatuwaqa.*

*On the morning of 13 February, 2020 at around 7:25am, PW1 arrived at his workplace at Fuji Xerox in Vatuwaqa to find that the door to his office was open. When he checked around the office, he discovered that the following items were missing:*

- 1x black Dell laptop valued at \$2,000.00.*
- 8x Samsung tablets with the combined value of \$2,800.00.*
- 3x external hard drives with the combined value of \$750.00.*
- 2x black labels valued at \$400.00 each and*
- 3x Chivas Regal Whiskey valued at \$750.00.*
- 2x Samsung mobile phones valued at \$2,000.00.*

*PW1 then checked the washroom and saw that someone had broken into the building, through the ceiling. The thieves had turned the cameras so that they faced upwards. When PW1 checked further on, he also found the following items missing:*

- 1x Hitachi amplifier valued at \$3,000.00;*
- 1x Optoma projector valued at \$3,000.00;*
- 1x ASUS laptop valued at \$1,500.00;*
- 3x Dell laptops valued at \$6,000.00.*

*PW1 also discovered that \$950.00 cash had been stolen from the Financial Controller's room and that 1x blue power bank valued at \$150.00 and 4x Samsung Tablets valued at \$1,400.00.*

*The total amount of all the stolen property was \$24,700.00.*

*On 10 July, 2020 at around 5am, PW2 with the assistance of the OPS Team, conducted a raid at A1's residence. The names of A1 and his juvenile accomplice had been given to the team to investigate. PW2 and his team proceeded to the settlement and were shown the residence of A1. Upon reaching A1's house, an itaukei man answered the door and when asked the whereabouts of A1, the man told PW2 that A1 had gone into another room. PW2 then arrested A1 and escorted him to the Nabua Police Station.*

*On 12 July, 2020 PW1 was called into the Nabua Police Station to identify some property the police believed could have been stolen from Fuji Xerox. PW1 positively identified 1x ASUS laptop with the serial number of DINOCX016136018 and the Samsung black tablets.*

*PW3 was the interviewing officer for A1 and he also took part in a raid of PW4's residence where 1x ASUS laptop matching the description of one of the stolen laptops at Fuji Xerox was seized by PW3. This was the same laptop identified by PW1 at the station. PW4 stated that he was approached by A1 to unlock the said laptop. Apart from the ASUS laptop and the Samsung black tablets, the other items were not recovered.*

**Annexed as PE 1 is a copy of the Search List that was recorded**

*A1 made admissions in his Record of Interview. According to A1's Record of Interview at Q&A 35 and 36, he admitted to entering Fuji Xerox with another person on 13/2/20 at around 4am. From Q&A 37 – 68, A1 stated that he and J1 and two others had been drinking home brew. They had planned to break into Fuji Xerox. They climbed onto the roof of Fuji Xerox, he and his juvenile accomplice two faschia boards before entering the building. They then broke two cement boards at the bottom of the ceiling and then A1 and his juvenile accomplice entered the building. Their friend "Bone" stood at the roof and did not enter. At Q&A 58, 59 and 60, A1 admitted to stealing items together with his juvenile accomplice including laptops, tablets and liquor. At Q&A 66 and 67, A1 admitted to stealing 5x laptops and 1x black label liquor. At Q&A 69, A1 admitted to also stealing 8x Samsung tablets. At Q&A 73, A1 stated that he sold all 5x laptops and at Q&A 74 and 75 when asked about the Samsung tablets. A1 said he gave two to his juvenile accomplice and the rest he sold. At Q&A 76, A1 admitted that they drank the black label. A1 sold 1x laptop to his uncle at Raiwasa and another laptop he sold in town to an unknown person (Q&A 77 and 78). From Q&A 84 – 95, A1 admitted to giving the ASUS laptop he stole from Fuji Xerox to PW4 to unlock. The same laptop was shown to A1 and he recognized it as the same laptop that he gave to PW4. A1 admitted to giving 2x Samsung tablets to his juvenile accomplice and the rest he said were gone (Q&A 96 – 98). A1 had no idea about the external hard drives (Q&A 99). At Q&A 100 and 111, A1 stated that he had only stolen 1x bottle of liquor. From Q&A 112 – 114, A1 said that he sold the power bank to a man in Nabua but didn't know his name. From Q&A 115 – 117, A1 denied stealing the Hitachi amplifier, Optoma projector and the \$950.00 cash. At Q&A 118 – 138, A1 participated in a scene reconstruction and either admitted or denied taking items that were put to him by the Interviewing Officer when referring to the same scene reconstruction. **The Record of Interview for A1 is annexed as PE 2 (English***

and itaukei versions)

Nil admissions were made in the Charge Statement of A1.

On 28 September, 2020, A1 pleaded guilty to both counts as charged.

A1 is a first offender.

3. The tariff for the offence of aggravated burglary which carries a maximum penalty of 17 years imprisonment should be an imprisonment term within the range of 6 years to 14 years. [Vide *State v Prasad* [2017] FJHC 761; HAC254.2016 (12 October 2017); *State v Naulu* [2018] FJHC 548 (25 June 2018); and *State v Nanovu* [2020] FJHC 985; HAC121.2020 (25 November 2020)]
4. The offence of theft contrary to section 291 of the Crimes Act carries a maximum sentence of 10 years. In the case of *Waqa v State* [HAA 17 of 2015], this court held that the tariff for the offence of theft should be 4 months to 3 years imprisonment.
5. In the case of *State v Chand* [2018] FJHC 830; HAC44.2018 (6 September 2018), Morais J observed thus;

12. Burglary of home must be regarded a serious offence. A home is a private sanctuary for a person. People are entitled to feel safe and secure in their homes. Any form of criminal intrusion of privacy and security of people in their homes must be dealt with condign punishment to denounce the conduct and deter others. As Lord Bingham CJ in **Brewster** 1998 1 Cr App R 220 observed at 225:

*“Domestic burglary is, and always has been, regarded as a very serious offence. It may involve considerable loss to the victim. Even when it does not, the victim may lose possessions of particular value to him or her. To those who are insured, the receipt of financial compensation does not replace what is lost. But many victims are uninsured; because they may have fewer possessions, they are the more seriously injured by the loss of those they do have. The loss of material possessions is, however, only part (and often a minor part) of the reason why domestic burglary is a serious offence. Most people, perfectly legitimately, attach importance to the privacy and security of their own homes. That an intruder should break in or enter, for his own dishonest purposes, leaves the*

*victim with a sense of violation and insecurity. Even where the victim is unaware, at the time, that the burglar is in the house, it can be a frightening experience to learn that a burglary has taken place; and it is all the more frightening if the victim confronts or hears the burglar. Generally speaking, it is more frightening if the victim is in the house when the burglary takes place, and if the intrusion takes place at night; but that does not mean that the offence is not serious if the victim returns to an empty house during the daytime to find that it has been burgled. The seriousness of the offence can vary almost infinitely from case to case. It may involve an impulsive act involving an object of little value (reaching through a window to take a bottle of milk, or stealing a can of petrol from an outhouse). At the other end of the spectrum it may involve a professional, planned organization, directed at objects of high value. Or the offence may be deliberately directed at the elderly, the disabled or the sick; and it may involve repeated burglaries of the same premises. It may sometimes be accompanied by acts of wanton vandalism."*

6. The two offences you are convicted of are founded on the same facts. Therefore, in view of the provisions of section 17 of the Sentencing and Penalties Act, I consider it appropriate to impose an aggregate sentence of imprisonment against you for the two offences you have committed.
7. You are 26 years old and single. It is submitted that you had been working at a supermarket before your recent arrest. You live with your mother and your 4 months old niece.
8. It is also submitted that you have undergone seven surgeries due to a certain condition in relation to your heart and a pacemaker has been implanted where you are required to attend reviews at the hospital every four months. This court was also informed that you were being medically advised not to do any heavy lifting. I have noted this medical condition of yours but at the same time I am also mindful of the fact that this particular condition or the relevant medical advice did not stop you from committing the offences relevant to this case by breaking into the relevant building.

9. The total amount of the property that was stolen is \$24,700. This value of the items stolen should be regarded as an aggravating factor. The summary of facts also reveals that you have committed the above offences along with a juvenile offender, which should also be considered as an aggravating factor.
10. It is pertinent to note that though the summary of facts state that the ASUS laptop and 'Samsung black tablets' were recovered, in the sentencing submissions the prosecutor has stated that only the ASUS laptop valued at \$1,500 was recovered. Further, according to the summary of facts, two sets of Samsung tablets have been stolen from two different rooms of the building where altogether 12 tablets have been stolen. But either the summary of facts or the sentencing submissions does not specify how many of those were recovered or which set of tablets are referred to as the 'Samsung black tablets'. For this reason, giving the benefit to you, I will assume that all the Samsung tablets with the combined value of \$4,200 were recovered and accordingly the value of the items which are not recovered is \$19,000.
11. In addition to the fact that you have entered an early guilty plea, I would consider the following as your mitigating factors;
  - a) You are a first offender;
  - b) There is partial recovery to the value of \$5,700;
  - c) You are remorseful; and
  - d) You have cooperated with the police.
12. I would select 06 years as the starting point of your aggregate sentence. I would add 03 years in view of the aforementioned aggravating factors. I would deduct 03 years in view of the above mitigating factors. Now the sentence is 06 years imprisonment. In view of your early guilty plea, I would grant a discount of one-third. Accordingly, the final sentence is 04 years (after deducting 02 years).
13. You have spent a period 04 months and 10 days in custody in relation to this matter. The aforesaid period you have spent in custody shall be regarded as

time you have already served in relation to this case pursuant to the provisions of section 24 of the Sentencing and Penalties Act.

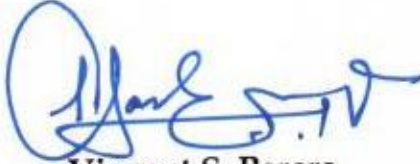
14. Considering all the circumstances, I would fix the non-parole period at 02 years, 04 months and 10 days; in terms of the provisions of section 18(1) of the Sentencing and Penalties Act.
15. In the result, you are sentenced to a term of imprisonment of 04 years with a non-parole term of 02 years, 04 months and 10 days. In view of the time spent in custody the time remaining to be served is;

Head sentence – 03 years; 07 months; and 20 days

Non-parole period – 02 years

16. I further order that you shall serve this sentence concurrently with the sentence that would be imposed on you on this date in relation to Case No. HAC210/2020.
17. Thirty (30) days to appeal to the Court of Appeal.



  
Vinsent S. Perera  
JUDGE

Solicitors;

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