



*Particulars of Offence*

**LEMEKI TUPALI & VEIQARAVI LUTU TATATAU** on the 29<sup>th</sup> day of September, 2019 at Pacific Harbour in the Central Division, in the company of each other stole 1x MacBook mini laptop (silver in colour), 1x I-phone 6 plus (gold in colour) with cover, 1x gold ring, 1x MacBook laptop (silver in colour), 1x I-phone 6 (pink in colour) with black leather case, 1x Samsung brand mobile phone and \$450 cash from **MANON HUFFER BOIVERT** and at the time of stealing from **MANON HUFFER BOIVERT**, used force on her.

2. Satisfied by the fact that you have fully comprehended the legal effect of your plea and your plea was voluntary and free from influence, I now convict you to this offence of Aggravated Robbery.

**Factual Background**

3. You and another accomplice entered the complainant's house at about 5.29 p.m. on the 29th of September 2019. The complainant was alone at home as her mother went somewhere. She was a 19 years old Student. The complainant started to shout at you and your accomplices when she saw the two intruders. One of you had then run to the complainant, and the other one had got hold of her mobile phone. You had covered her mouth and then grabbed her by the neck and pushed her down. You then tied her face with a t-shirt.
4. You asked the complainant not to shout. Both of you then dragged her to her room. You then tied her hands and legs with her clothes to the bed. One of you was very aggressive, asking her where is the money. You had spent about 15 minutes at the house and stole the items, as stated in the particulars of the offence. Two of you had gained entry into the home through the window of the bedroom of the complainant.

5. This is a violent home invasion and stealing therein. Aggravated Robbery is the worst and severe form of property crime in this jurisdiction, which carries a maximum penalty of twenty years imprisonment. Therefore, the Court finds the Aggravated Robbery as a serious offence.
6. Given the seriousness of these offences, it is the opinion of the Court that such offenders must be dealt with severe and harsh punishment. Therefore, the purpose of this sentence is founded on the principle of deterrence and protection of the community.

### **Tariff**

7. The tariff for the offence of Aggravated Robbery is between eight (8) years to sixteen (16) years of imprisonment. (**Wise v State [2015] FJSC 7; CAV0004.2015 (24 April 2015)**).
8. The complainant was a 19 years old student. Undoubtedly, this is a horrific and horrendous experience. This horrific experience would stay in her mind for an extended period.
9. Two of you have entered the house while the complainant was alone in the house. She was not in a position to react or escape from the scene. This is a properly planned and well-executed home invasion. You had used a substantial amount of physical force on the complainant. Accordingly, I find the level of harm and culpability in this offence is significantly high.
10. Considering the seriousness of this offence and the level of harm and culpability, the Court selects ten (10) years as the starting point.

### **Aggravating Factors**

11. The complainant's medical examination report states that she has sustained bruises on her arms and tenderness on her neck. Two of you fled the home, leaving her hands and legs tied to the bed.

### **Mitigation Factors**

12. Your counsel in the mitigation submissions highlighted your family and personal circumstances, which the Court finds no mitigatory value.
13. You are adversely recorded with twenty-one (21) previous convictions. Hence, you are not entitled to any discount for your previous good character. Moreover, there is no evidence or information before this Court to consider your general reputation in society. Furthermore, there is no information about any significant contribution that you had made to the community.
14. You pleaded guilty to this matter before the hearing. Therefore, you are entitled to a substantive discount for your plea of guilty.
15. In view of the reasons discussed above, I increase two (2) years for the aggravating factors to reach twelve (12) years. I reduce two (2) year for your early plea of guilty. The final sentence is ten (10) years imprisonment.
16. Having considered the seriousness of this crime, the purpose of this sentence, and your age, I fixed a non-parole period of eight (08) years.

### **Head Sentence**

17. Accordingly, I sentenced you to a period of ten (10) years imprisonment to the offence of Aggravated Robbery, contrary to Section 311 (1) (a) of the Crimes Act. Moreover, you are not entitled to any parole for eight (08) years pursuant to Section 18 (1) of the Sentencing and Penalties Act.

**Actual Period of the Sentence**

18. You have been in remand custody for this case for nearly one (1) year and twenty (20) days before the sentence as the Court did not grant you bail. In pursuant to Section 24 of the Sentencing and Penalties Act, I consider one (1) year as a period of imprisonment that you have already served.
19. Accordingly, the actual sentencing period is **nine (09) years** imprisonment with a non-parole period of **seven (07) years**.
20. Thirty (30) days to appeal to the Fiji Court of Appeal.



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**Hon. Mr. Justice R.D.R.T. Rajasinghe**

**At Suva**

06 November 2020

**Solicitors**

Office of the Director of Public Prosecutions for the State.

Office of the Legal Aid Commission for the Accused.