

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

**Crim. Case No: HAC 9 of 2021**

**BETWEEN:** STATE

**PROSECUTION**

**A N D:** 1. TEVITA BADOGO  
2. ERONI BALE

**ACCUSED PERSONS**

**Counsel** : Ms. B. Kantharia for the State  
Ms. A. Singh for 1<sup>st</sup> Accused  
Ms. A. Prakash for 2<sup>nd</sup> Accused

**Date of Sentence** : 06<sup>th</sup> April 2021

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**SENTENCE**

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1. Mr. Tevita Badogo and Mr. Eroni Bale have been charged with three counts of Act with Intent to Cause Grievous Harm, contrary to Sections 46 and 255 (a) of the Crimes Act, which carries a maximum punishment of life imprisonment. The particulars of the offence are that:

***FIRST COUNT***

*Statement of Offence*

**ACT WITH INTENT TO CAUSE GRIEVOUS HARM:** *Contrary to Sections 46 and 255 (a) of the Crimes Act 2009.*

*Particulars of Offence*

*TEVITA BADOGO and ERONI BALE jointly on the 3<sup>rd</sup> day of January, 2021 at Nabua in the Central Division, with intent to cause some grievous harm to EMOSI RATU, unlawfully wounded the said EMOSI RATU by hitting him with a torch, coconut scrapper and drum.*

**SECOND COUNT**

*Statement of Offence*

**ACT WITH INTENT TO CAUSE GRIEVOUS HARM:** *Contrary to Sections 46 and 255 (a) of the Crimes Act 2009.*

*Particulars of Offence*

*TEVITA BADOGO and ERONI BALE jointly on the 3<sup>rd</sup> day of January, 2021 at Nabua in the Central Division, with intent to cause some grievous harm to SEMITI FUNAKI, unlawfully wounded the said SEMITI FUNAKI by hitting him with a torch, coconut scrapper and drum.*

**THIRD COUNT**

*Statement of Offence*

**ACT WITH INTENT TO CAUSE GRIEVOUS HARM:** *Contrary to Sections 46 and 255 (a) of the Crimes Act 2009.*

*Particulars of Offence*

*TEVITA BADOGO and ERONI BALE jointly on the 3<sup>rd</sup> day of January, 2021 at Nabua in the Central Division, with intent to cause some grievous harm to JONE BALEISUVA, unlawfully wounded the said JONE BALEISUVA by hitting him with a torch, coconut scrapper and drum.*

2. You pleaded guilty to these offences on the 15th of March 2021. Satisfied by the fact that you have fully comprehended the legal effect of your plea and your plea were voluntary and free from influence, I now convict both of you to each of these three counts.
3. It was revealed in the summary of facts which you have admitted in the Court that two of you had invaded the flat of Mitieli Waisu at the Mead Road Housing in the early hours of the 3rd of March 2021, where the three victims had a grog session with several others. You had then started to assault the three victims with a torch, coconut scrapper, and a drum, causing them injuries as stated in the three victims' respective Medical Examination Reports.
4. This is a case of the violent invasion of a house and assaulting the occupants with weapons. Such acts of violence undoubtedly attract an immediate custodial sentence to demonstrate that society unreservedly denounces such violent acts.
5. Having considered the serious nature of these offences, I now proceed to determine an appropriate sentence for you in line with general principles, objectives, and purposes of sentencing under sections 4 (1) and 4 (2) and 15 of the Sentencing and Penalties Act.
6. The tariff for the offence of Act with Intent to Cause Grievous Harm is six (6) months to five (5) years imprisonment.
7. All of these offences are founded on the same series of offending. Therefore, I find it is appropriate to impose an aggregate sentence pursuant to Section 17 of the Sentencing and Penalties Act.
8. The Victim Impact Reports of the three victims state the physical and psychological trauma that each victim had gone through due to this crime. Therefore, I find the level of harm in this matter is substantively high.

9. You had assaulted the victims while they were sleeping in the flat. You suddenly invaded and started to assault them, leaving the victims vulnerable without any prospect of defending or saving themselves from the ordeal. The amount of violence and force you have used on the victims are very high. I accordingly find the level of culpability in this crime is significantly high.
10. You have assaulted them without any form of provocations. You had not known the victim before. The sister of the second accused was at the group sessions with the victims. As per the demand of the second accused, she had gone home that was few hours before this sudden and brutal attack. You have waited until they all gone to sleep and then unleashed this attack. Therefore, I find this is a planned and calculated invasion and assault on the victim. I find these facts as the aggravating factors of this crime.
11. Mr. Tevita Badogo, you are 27 years old and a first offender. You are married with one child. Mr. Eroni Bale, you are also 27 years old and a first offender. You are a divorcee with one child. Both of you pleaded guilty to these offences at the first available opportunity. You are entitled to a substantial discount for your previous good characters.
12. Moreover, both of you had admitted your responsibilities of committing these offences in your caution interviews. In doing that, you have expressed and shown your remorse and repent for committing this crime. Therefore, you are entitled to a substantial discount for your early plea of guilty.
13. Considering the reasons discussed above, Mr. Tevita Badogo, I sentence you to three (3) years imprisonment as an aggregate sentence for these three counts as charged. Your sentence is partially suspended where you shall serve two (2) years of your sentence forthwith, and the remaining period of one (1) year is suspended for three (3) years.

14. Having considered the seriousness of this crime, the purpose of this sentence, your age, and opportunities for rehabilitation, I find one (1) year of non-parole period would serve the purpose of this sentence. Hence, you are not eligible for any parole for one (1) year pursuant to Section 18 (1) of the Sentencing and Penalties Act.
15. Considering the time spent in custody (nearly three months), the actual period you have to serve in custody is one (1) year and nine (9) months imprisonment with nine (9) months of non-parole period.
16. Mr. Eroni Bale, I sentence you to three (3) years imprisonment as an aggregate sentence for these three counts as charged. Your sentence is partially suspended where you shall serve two (2) years of your sentence forthwith, and the remaining period of one (1) year is suspended for three (3) years.
17. Having considered the seriousness of this crime, the purpose of this sentence, your age, and opportunities for rehabilitation, I find one (1) year of non-parole period would serve the purpose of this sentence. Hence, you are not eligible for any parole for one (1) year pursuant to Section 18 (1) of the Sentencing and Penalties Act.
18. Considering the time spent in custody (nearly three months), the actual period you have to serve in custody is one (1) year and nine (9) months imprisonment with nine (9) months of non-parole period.
19. If you commit any crime during the period of three (3) years and found guilty by the Court, you are liable to be charged and prosecuted for an offence according to Section 28 of the Sentencing and Penalties Act.

20. Thirty (30) days to appeal to the Fiji Court of Appeal.



A handwritten signature in black ink, appearing to read "R.D.R.T. Rajasinghe", is written over a horizontal dotted line.

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

**At Suva**

06<sup>th</sup> April 2021

**Solicitors**

Office of the Director of Public Prosecutions for the State.

Office of the Legal Aid Commission for 1<sup>st</sup> Accused.

Officer of the Legal Aid Commission for 2<sup>nd</sup> Accused.