

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

**CRIMINAL CASE NO. HAC 338 OF 2022**

**BETWEEN** : STATE

**AND** : TOKASA DAKUNIMARAMA  
ELENOA DIBULUSAYA

**Counsel** : Mr H Naufaga for the State  
Ms L Ratidara for the 1<sup>st</sup> Accused  
Ms L David for the 2<sup>nd</sup> Accused

**Date of Hearing** : 6 December 2022


**Date of Sentence** : 9 December 2022

**SENTENCE**

- [1] Both offenders have entered early guilty pleas to a charge of aggravated burglary and a charge of theft, arising from the same transaction.
- [2] The facts are that on 20 August 2022, the offenders entered the home of Nafiz Ali at Nasinu and stole two pairs of shoes and a laptop when the owner was not at home. Entry to the house was made by unlocking the main entrance door through a window. The stolen items were sold to third parties and have not been recovered.
- [3] The maximum penalty for aggravated burglary is 17 years imprisonment, while the maximum penalty for theft is 10 years imprisonment. Recently, in *Kumar & Vakatawa v State* Criminal Appeals No AAU33 of 2018 and AAU117 of 2019, the Court of Appeal has set out useful guidelines for sentencing in aggravated burglary cases, which I adopt in this case.

- [4] The Kumar guidelines require the sentencing court to first assess the level of harm caused by the offence and then determine the applicable starting point and sentencing range. In this case, the parties agree that the level of harm is low and the applicable starting point is 3 years imprisonment and the sentencing range is 1-5 years imprisonment. None of the aggravating factors set out in the Kumar guidelines are present in this case. The house was not ransacked or damaged.
- [5] The mitigating factors are the offenders' early guilty pleas, their youth and their previous good character. Both are 20 years old and unemployed. Both have spent about a month in custody on remand before they were released on bail. Their guilty pleas have saved the court's time and resources. Their police confessions and guilty pleas indicate that they are remorseful.
- [6] I use an aggregate term of 3 years imprisonment as my starting point and deduct 2 years to reflect the mitigating factors.
- [7] Both offenders are convicted and sentenced to an aggregate term of 12 months imprisonment. Both offenders are young and first time offenders. They are likely to respond to rehabilitation if given a chance. The ultimate purpose of the sentence is to keep the community safe. The sentence of 12 months imprisonment is suspended for 2 years.



  
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**Hon. Mr Justice Daniel Goundar**

**Solicitors:**

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