

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 105 OF 2022S

STATE

VS

TIKO DELAI

Counsels : Ms. N. Ali for State.
Accused in Person
Hearing : 23 November, 2022.
Sentence : 5 May, 2023.

SENTENCE

1. On 23 November 2022, the accused pleaded guilty to the following information:

“Statement of Offence

AGGRAVATED ROBBERY: *Contrary to section 311 (1) (b) of the Crimes Act 2009.*

Particulars of Offence

TIKO DELAI on the 21st day of March, 2022 at Nasinu in the Central Division, being armed with an offensive weapon, robbed ***ANGELINE NARAYAN*** of \$168.60 cash, the property of ***NAYAN'S SUPERMARKET.***”

2. He had previously waived his right to counsel on 28 October 2022, and he said he would represent himself. He told the court that he wished to plead guilty to the charge. The court checked with him on whether or not he pleaded guilty voluntarily and out of his own free will on 23 November 2022. He said he did so, and that no one forced him to plead guilty.
3. The prosecution then presented their summary of facts. Basically, they were as follows. The complainant, Ms. Angeline Narayan, was 36 years old, and worked as a cashier, at Nayan's Supermarket at Pilling Road at Naisnu. She resided at Narere, Nasinu. The accused was 25 years old, at the time of the offence, and was a farmer and resided at Kanace Road, Valelevu.
4. On 21 March 2022, at about 12.57 pm, the complainant was serving at the front cashier counter at Nayan's Supermarket. The accused later entered the supermarket, with a black Harrison shopping bag under his arm pit. The accused went to the shop's deep fridge, obtained a choc-attack ice cream and took it to the complainant's front cashier counter. The accused paid the same with \$2, and the complainant opened the cash till, to get his change. The accused suddenly grabbed the cash till and threatened to chop the complainant with a kitchen chopper multiple times. He then stole \$168 cash from the cash till, and later fled the crime scene.
5. The matter was reported to police. An investigation was carried out. The shop's CCTV footage was examined. The accused was identified from the CCTV footage. He was later arrested on the same day, 21 March 2022 and caution interviewed by police.
6. The court checked with the accused on whether or not, he agreed with the prosecution's summary of facts. He said, he agreed with the same, including the particulars of offence in the information. As a result of the accused's above

admissions, the court found him guilty as charged, and convicted him accordingly.

7. At the age of 25 years old, the accused was a first offender. He presented his own plea in mitigation. He was married with no child. He was living with his parents at Valelevu. He reached form 3 level education. He pleaded guilty 7 months after first call in the High Court. He said, he was drinking with friends at the time, and stole to buy more drinks. He had paid \$1,000 cash compensation to the complainants, \$170 paid to Nayan's Supermarket and \$830 to the complainant, Ms. Angeline Narayan.
8. "Aggravated Robbery", as a criminal offence, is viewed seriously by the law-makers of this country, and it carried a maximum sentence of 20 years imprisonment. For a spate of robberies, the tariff is a sentence between 10 to 16 years imprisonment: see **Livai Nawalu v The State**, Criminal Appeal No. CAV 0012 of 2012, Supreme Court of Fiji. With a single case of aggravated robbery, the tariff is now a sentence between 8 to 16 years imprisonment: see **Wallace Wise v The State**, Criminal Appeal No. CAV 0004 of 2015, Supreme Court of Fiji. The actual sentence will depend on the aggravating and mitigating factors.
9. The aggravating factor in this case, was as follows:
 - (i) The use of a kitchen chopper to threaten and intimidate the complainant, Ms. Angeline Narayan.
10. The mitigating factors were as follows:
 - (i) The accused, at 25 years old, was a first offender.
 - (ii) He pleaded guilty to the offence, 7 months after first call. He nevertheless, saved the court's time.
 - (iii) He paid \$1,000 cash compensation to the complainants; first \$170 to Nayan's Supermarket, for the \$168 he stole; and \$830 to Ms. Angeline Narayan for causing her discomfort on the day of the offence.

(iv) He had been remanded in custody since 25 March 2022, that is, 1 year 1 month 7 days.

11. I start with a sentence of 8 years imprisonment. I add 1 year for the aggravating factor, making a total sentence of 9 years imprisonment. For time already served while remanded in custody for 1 year 1 month 7 days, I deduct 1 ½ years from 9 years, leaving a balance of 7 ½ years imprisonment. For being a first offender, I deduct 2 years, leaving a balance of 5 ½ years imprisonment. For payment of \$1,000 compensation to the complainants, I deduct 6 months, leaving a balance of 5 years imprisonment. For pleading guilty to the offence, 7 months after first call in the High Court, I deduct 2 years, leaving a balance of 3 years imprisonment.
12. Mr. Tiko Delai, for the “aggravated robbery” you committed against Ms. Angeline Narayan on 21 March 2022, at Nasinu in the Central Division, I sentence you to 3 years imprisonment. I will not impose a non-parole period.
13. You have 30 days to appeal to the Court of Appeal.



Salesi Temo

Acting Chief Justice

Solicitor for State : **Office of the Director of Public Prosecution, Suva**
Solicitor for Accused : **In Person.**