

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Crim. Case No: HAC 21 of 2022

STATE

vs.

PENI RARAWA

Counsel: Ms. N. Ali with Mr. T. Naimila for the State
Mr. Veibataki for Accused

Dates of Hearing: 17th, 18th and 19th March 2025

Date of Closing Submission: 19th March 2025

Date of Judgment: 11th April 2025

Date of Sentence: 24th April 2025

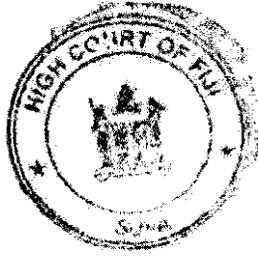
SENTENCE

1. On the 11th of April 2025, this Court found you guilty of one count of an Act Intended to Cause Grievous Harm: contrary to Section 255 (a) of the Crimes Act, which carries a maximum sentence of life imprisonment.

2. It was proven during the hearing that you struck the Complainant on his upper arm with a cane knife, causing a sharp and deep cut in his arm. Prior to this incident, you had consumed alcohol with the Complainant and a few others in the village.
3. It appears that Courts in Fiji have adopted two approaches for tariffs for the Act Intended to Cause Grievous Harm offence. The first approach is two (2) to six (6) years of imprisonment. (**The State v Pauliasi Yasa, Criminal Case No. HAC 044 of 2012S, State v Masicola [2015] FJHC 411; HAC081.2014S (the 5th of June 2015), Felix Patel v State, Criminal Appeal No HAA 030 of 2011 (the 27th of October 2011)**). The other approach is six months to five years imprisonment, and in cases where a weapon is involved, the starting point should range from two years to five years. (**State v Vakalaca - Sentence [2018] FJHC 455; HAC027.2018 (the 31st of May 2018), State v Senivono - Sentence [2023] FJHC 648; HAC47.2023 (the 7th of September 2023), Vosa -v- State [2019] FJCA 89; AAU 84 of 2015 (the 6th of June 2019)**).
4. An Act Intended to Cause Grievous Harm is one of the serious forms of offence against a person. Hence, the objective seriousness of this matter is high.
5. In view of the objective seriousness of this crime, the primary purpose of this sentence is the principle of deterrence. It is the responsibility of the Court to deter offenders or other persons from committing offences of the same or similar nature and protect the community from offenders of this nature.
6. The Complainant suffered a deep, sharp cut in his upper arm and has been experiencing difficulties with it. Therefore, I find that the level of harm in this matter is materially significant. You assaulted the Complainant from behind when he was unable to protect himself or seek help. You used a cane knife to inflict this injury. Considering the nature of the injuries sustained by the Complainant and the use of an offensive weapon in this crime, I find the level of culpability in this offence to be high as well.

7. Considering the objective seriousness, the purpose of this sentence, the level of harm, and the culpability, it is appropriate to have a starting point closer to the middle range of the tariff. I accordingly select three (3) years as the starting point.
8. You and the Complainant know each other as neighbours in the same village. By committing this crime, you have breached the trust the Complainant placed in you as a neighbour. I find this to be an aggravating circumstance of this offence.
9. You are a first offender. Therefore, you are entitled to a discount for your prior good character.
10. Consequently, I add one year to your aggravating factor, resulting in a total of four years imprisonment, and subtract one year for your previous good character. Therefore, your final sentence is now three (3) years imprisonment.
11. I hereby sentence you to three (3) years of imprisonment for one count of Acts Intended to Cause Grievous Harm, contrary to Section 255 (a) of the Crimes Act.
12. Considering your age, previous good character, and chances for rehabilitation, I partly suspended your sentence. You shall serve eighteen (18) months of your sentence immediately, and the remaining eighteen (18) months are suspended for three (3) years.
13. Given the time spent in custody (nearly seventeen days), the actual period you must serve in custody is **seventeen (17) months**.
14. If you commit any crime during these three (3) years and are 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.

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



A handwritten signature in black ink, appearing to be "R. D. R. T. Rajasinghe".

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

At Suva

24th April 2025

Solicitors

Office of the Director of Public Prosecutions for the State.

Office of the Legal Aid Commission for the Accused.