

THE MAGISTRATE'S COURT AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. 206 of 2016

STATE

v

METUISELA MASILAGO

For the Prosecution : **WCPL Qolitabua**
For the Accused : **In Person**
Sentence : **18 July 2017.**

SENTENCE

1. The accused, Metuisela Masilago, you are before this court to be sentenced for one count of *Theft*.
2. On 6 February 2017 you waived your rights to counsel and pleaded guilty to the charge on your own free will. I find your plea to be unequivocal.
3. The brief summary of facts are;-
"On 16 February 2016, at about 12pm at the Naseakula Service Station, Labasa, the accused Metuisela Masilago went into the Service Station and take something from the tilt. Upon confrontation, \$20.00 cash was found in his possession. Dharmesh Lal (victim) in the afternoon balance the money at the service station and found that it was

short by \$56.00. The matter was reported, investigation carried out where the accused was arrested, interviewed, and charged.”

4. You admitted to the above summary of facts on 6 February 2017 and convicted as charged. You submitted your oral mitigation on the same day.
5. The maximum penalty for *Theft* is 10 years imprisonment. In the case of ***Ratusili v State*** [2012] FJHC 1249; HAA011.2012 (1 August 2012), the High Court set the tariff as follows;-
 - a) *First offence of simple theft, sentence range between 2 and 9 months;*
 - b) *Any subsequent offence, attracts penalty at least 9 months;*
 - c) *Theft of large sum of money and theft in breach of trust, whether first offence or not attract sentences of up to 3 years;*
 - d) *Planned thefts attract greater sentence than opportunistic thefts.*
6. The aggravating factors are;-
 - a. *Unlawfully took the money from the tilt,*
 - b. *Stolen items not recovered in full.*
7. The mitigation factors are;-
 - a. *Sole breadwinner,*
 - b. *Ask for the court forgiveness.*
8. This is not the first time you have been convicted and sentence for theft. For your sentence, I pick 12 months as my starting point. I add 10 months for the aggravating factors and that increase your sentence to 1 year and 10 months imprisonment. I reduce 3 months for your mitigation and that reduce your sentence to 1 year and 7 months imprisonment. I reduce 6 months for your early guilty plea and that reduce your sentence to 1 year and 1 month imprisonment.
9. During the cause of this proceeding you were serving in prison for other case. I will not give discount for the period you are serving in other case as you are on bail in this case.

10. Metuisela Masilago, your final sentence is 1 year and 1 month imprisonment and you are to serve your sentence with immediate effects.

28 days to appeal.



C. M. Tuberi
RESIDENT MAGISTRATE