

**IN THE MAGISTRATES' COURT OF FIJI  
AT TAVUA  
CRIMINAL JURISDICTION**

Criminal Case No: 81 - 2019

**STATE**

-v-

**ISIRELI TUKANA**

Before : RM Fotofili L.  
For Prosecution : WPC Chand A. [ Police Prosecution ]  
Accused : In Person, Waived Right To Counsel  
Date of Sentence : 30<sup>th</sup> July 2019

**SENTENCE**

1. **ISIRELI TUKANA**, you have pleaded guilty to the following charge [ amended on the 25<sup>th</sup> June 2019 ] :

*Statement of Offence*

**THEFT**: Contrary to section 291 of the *Crimes Act of 2009*.

*Particulars of Offence*

**ISIRELI TUKANA** on the 24<sup>th</sup> day of February, 2019 at Tavualevu village, Tavua in the Western Division, dishonestly appropriated a Skyworth Brand Flat screen television valued at \$699.00 the property of **SALOTE TABUDUKU**, with intention to permanently deprive the said **SALOTE TABUDUKU** of his [ sic ] property.

2. I am satisfied that your guilty plea is voluntary, it is supported by the evidence tendered in support of your guilty plea and your admission in court. I am also satisfied that you understand the consequence of your plea.
3. I find you guilty and I convict you of the charge accordingly.
4. The victim's family were not at home at the time as they went to their farm house. They had secured their house before leaving. When they returned, it was seen that

- (iii) Theft of large sums of money and thefts in breach of trust, whether first offence or not can attract sentences of up to three years.
- (iv) regard should be had to the nature of the relationship between offender and victim.
- (v) planned thefts will attract greater sentences than opportunistic thefts.

### **STARTING POINT**

- 15. Based on the objective seriousness of the case, I select a starting point of 4 months imprisonment.

### **AGGRAVATING FEATURES**

- 16. I am unsure that you planned the theft.
- 17. I accept though that you went to the house to sleep. It was still uninvited. It was your grandmother's house.
- 18. You left the door of the house open when you left.
- 19. You sold the TV for \$150.
- 20. I increase your sentence to 12 months imprisonment.

### **MITIGATION**

- 21. You have cooperated with police during your interview.
- 22. I accept that your cooperation resulted in the recovery of the TV.
- 23. I accept that you are remorseful.
- 24. You are young and a first offender.
- 25. Your sentence is reduced to 5 months imprisonment.

**GUILTY EARLY**

26. I accept that your guilty plea is early and I reduce your sentence to 3 months and 14 days imprisonment.

**SUSPENDED SENTENCE & OBJECTIVE OF SENTENCING**

27. I can suspend your sentence whether in whole or in part pursuant to section 26 ( 1 ) and ( 2 ) ( b ) of the **Sentencing and Penalties Act 2009** as long as your sentence is below 2 years imprisonment.
28. Your sentence is aimed at deterrence and to punish you adequately.

**FINAL SENTENCE**

29. Your sentence is 3 months and 14 days imprisonment.
30. No further reduction in sentence will be made as you did not spend any time in remand.
31. I am only inclined to suspend your sentence in part.
32. 2 months of your imprisonment term will be suspended for the next 18 months.
33. Do not commit any other offence punishable with imprisonment in the next 18 months. If you do, this 2 months imprisonment held in waiting maybe activated.
34. You will serve 1 month and 14 days imprisonment immediately.
35. 28 days to appeal.



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Lisiate T.V. Fotofili  
**Resident Magistrate**

Dated at TAVUA this 30<sup>th</sup> day of July, 2019.