

**IN THE MAGISTRATES' COURT OF FIJI AT
NASINU**

Criminal Case No: - 1250 /2020

STATE

V

TEVITA TUNAKORO LIGAITUKANA

For the Prosecution : PC Buli
The Accused : In Person
Date of Sentence : 11th of April 2025

SENTENCE

1. **TEVITA TUNAKORO LIGAITUKANA**, you have been charged with one count of Robbery contrary to Section 310(1) of the *Crimes Act*¹
2. You have entered a plea of guilty to this charge and have further admitted the summary of facts as presented by the prosecution.
3. According to the agreed summary of facts, the offence was committed on 10th of July 2020 at Nasinu. The complainant, was driving his vehicle from Suva to Nausori and stopped at the Kinoya Traffic lights. Whilst he was engaged in a call, you came from outside, grabbed his phone and fled from the scene.
4. The matter was reported to the Valelevu police station and you were arrested. The phone was also recovered.
5. I am satisfied that your plea of guilty is entered voluntarily and unequivocally. Accordingly, I find you guilty of the offence as charged.
6. Pursuant to the Crimes Act, the statutory maximum penalty for the offence of robbery is imprisonment for a term of 15 years.
7. In *State v Tawake*², his Lordship Justice Brian Keith established a revised sentencing tariff for street mugging offences. His Lordship observed that:

“There is no need to identify different levels of culpability because the level of culpability is reflected in the nature of the offence, and if the offence is one of aggravated robbery, which of the forms of aggravated robbery the offence

¹ No. 44 of 2009.

² [2022] FJSC 22; CAV0025.2019 (28 April 2022).

took. When it comes to the level of harm suffered by the victim, there should be three different levels. The harm should be characterized as high in those cases where serious physical or psychological harm (or both) has been suffered by the victim. The harm should be characterized as low in those cases where no or only minimal physical or psychological harm was suffered by the victim. The harm should be characterized as medium in those cases in which, in the judge's opinion, the harm falls between high and low."

8. The Supreme Court of Fiji suggested the following starting points based on the harm caused to the victim :

ROBBERY (OFFENDER ALONE AND WITHOUT A WEAPON)

HIGH

Starting point: 5 years imprisonment

Sentencing range: 3-7 years

MEDIUM

Starting point: 3 years imprisonment

Sentencing range: 1-5 years imprisonment

LOW

Starting point: 18 months imprisonment

Sentencing range: 6 months-3 years imprisonment

9. Considering that you acted alone and that no weapon was employed in the commission of the offence, I shall apply the sentencing tariff as articulated in paragraph 07 of the *State v Tawake* judgment.
10. Furthermore, in the absence of evidence indicating that the complainant sustained any injuries during the incident, I determine that applicable sentencing range as 06 months-03 years and, that a starting point of **18 months' imprisonment** is appropriate for the offence.
11. The Supreme Court in *State v Tawake* identified following aggravating and mitigating factors relevant to the assessment of sentences for robbery offences.

- **The aggravating factors**

- i. **Significant planning**

- ii. Prolonged nature of the robbery
- iii. Offence committed in darkness
- iv. Particularly high value of the goods or sums targeted
- v. Victim is chosen because of their vulnerability (for example, age, infirmity or disability), or the victim is perceived to be vulnerable
- vi. Offender taking a leading role in the offence where it is committed with others
- vii. Deadly nature of the weapon used where the offender has a weapon
- viii. Restraint, detention or additional degradation of the victim, which is greater than is necessary to succeed in the robbery
- ix. Any steps taken by the offender to prevent the victim from reporting the robbery or assisting in any prosecution

The mitigating factors

- I. No or only minimal force was used
 - II. The offence was committed on the spur of the moment with little or no planning
 - III. The offender committed or participated in the offence reluctantly as a result of coercion or intimidation (not amounting to duress) or as a result of peer pressure
 - IV. No relevant previous convictions
 - V. Genuine remorse evidenced, for example, by voluntary reparation to the victim
 - VI. Youth or lack of maturity which affects the offender's culpability
 - VII. Any other relevant personal considerations (for example, the offender is the sole or primary carer of dependent relatives, or has a learning disability or a mental disorder which reduces their culpability)
12. The item stolen, a Huawei P20 has a value of **\$2,400**, which constitutes a substantial amount. Taking these aggravating factors into account, I increase your sentence by **12 months**, resulting in a total sentence of **30 months' imprisonment**.
13. In mitigation you submitted that you are **26 years old, in a relationship and remorseful**. Furthermore, the summary of facts indicates that the stolen item was recovered. Taking these mitigating factors into consideration, I reduce the sentence by **04 months**, resulting in a revised sentence of **26 months' imprisonment**.
14. In *Vilimone v State*³, the Court held that where an accused pleads guilty at the earliest available opportunity, the sentence should be reduced by one-third. In your case, you pleaded guilty nearly 05 years after first produced to court. However this has saved the court

³ [2008] JHC 12; HAA 131-132.2007 (8 February 2008).

- from proceeding for hearing and for that I deduct 04 months to reach ^{22 4.}~~20~~ months' imprisonment.
15. I now turn to the issue of whether your sentence should be suspended, either wholly or partially.⁴
 16. In *Narvia v State* [2006] FJHC 6; HAA0148J.2005S (9 February 2006)⁵, the Court emphasized that every effort must be made to keep young first-time offenders out of prison. I am mindful that you are a young, first-time offender, and that rehabilitation and reintegration are important considerations in sentencing.
 17. Therefore, I find that a fully **suspended sentence** is appropriate in this case. ^{22 4}
 18. **TEVITA TUNAKORO LIGAITUKANA**, you are hereby sentenced to ~~20~~ months' **imprisonment** and this sentence is suspended **for a period of 3 years**.
 19. The suspended sentence is explained to the accused.
 20. 28 days to appeal.


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Shageeth Somaratne
Resident Magistrate



⁴ s 26(2)(b), Sentencing and Penalties Act 2009 .

⁵ [2008] JHC 12; HAA 131-132.2007 (8 February 2008).