



HIGH COURT OF KIRIBATI

Criminal Case N° 17/2019
Criminal Case N° 35/2019

THE REPUBLIC

v

TIOTI TEWEIA

Pauline Beiatou, Director of Public Prosecutions, for the Republic
Raweita Beniata for the accused

Date of sentencing: 25 October 2019

SENTENCE

- [1] Tioti Teweia has pleaded guilty to 2 counts of burglary, contrary to section 292(a) of the *Penal Code* (Cap.67). Each burglary count comes with a related count of simple larceny, contrary to section 254 of the *Penal Code*, to which the prisoner has also pleaded guilty. The charges relate to 2 separate matters, and are charged on 2 separate informations.
- [2] Shortly before midnight on 4 June 2018, the prisoner broke into the house of Tamaua Moriati in Betio while the inhabitants were sleeping. He gained entry by removing some of the security wire surrounding the verandah of the house and unlocking the door from the inside. He stole 2 mobile phones and a tablet device, together valued at approximately \$2500. The prisoner pawned the items for a fraction of their value. Only 1 of the mobile phones was recovered.
- [3] In the early hours of 12 August 2018 the prisoner broke into the house of Kiraua Herman in Betio by cutting some security wire and unlatching the door. The residents of the house were asleep. He stole a laptop computer and a mobile phone. The laptop belonged to the government and was valued at \$1000. The mobile phone was valued at \$200. The prisoner pawned the laptop for \$50 and gave the mobile phone away. Neither item was recovered.
- [4] These 2 incidents came at the end of a series of similar offences committed by the prisoner dating back to October 2016. That month he committed an offence of simple larceny, for which he was sentenced in November 2017 to 3 months' imprisonment. On 18 February 2019 I sentenced the prisoner to

imprisonment for a total of 4 years and 2 months for offences committed in April 2017 (breaking and entering), August 2017 (2 counts of breaking and entering and 1 count of simple larceny) and April 2018 (burglary and simple larceny).

- [5] As the offences for which the prisoner comes to be sentenced today were committed prior to his court appearance in February, it would have been preferable for him to have been dealt with for these offences then as well. I am disappointed that the prosecution did not put more effort into locating these files earlier. I am concerned that, if I were to treat these matters in isolation, it would lead to a total sentence disproportionate to the prisoner's overall criminality. In February I imposed a single sentence for all 6 counts that I considered met the gravity of what I knew then to be the prisoner's offending. As things stand, I will endeavour now to sentence the prisoner for these new matters as if all charges had come before me to be dealt with back in February.
- [6] The prisoner is 35 years of age. He is married, with 6 children aged between 1 and 11 years. Prior to being imprisoned in February, he led a subsistence lifestyle. The prisoner made full admissions to the police when questioned, telling them that he used the money from the sale of the items to buy alcohol.
- [7] In addition to the matters for which he was sentenced in October 2017 and February 2019, in November 2009 the prisoner was sentenced to 6 months' imprisonment, suspended for 1 year, for offences of common nuisance and escaping lawful custody.
- [8] For the reasons set out above, determining an appropriate sentence for the prisoner presents a particular challenge. The maximum penalty for burglary is imprisonment for life, while for simple larceny the maximum penalty is 10 years' imprisonment (due to the prisoner's previous felony conviction).
- [9] When sentencing the prisoner in February I made the following remarks, which bear repeating:
- [A] lengthy term of imprisonment is warranted in this case. The prisoner's absolute disregard for the property of others is deplorable. It is said in Kiribati that the only crime worse than murder is theft. In a communal society, where security is non-existent, respect for the belongings of others is at the core of our need to maintain peace and harmony in our communities. The courts must demonstrate to any person contemplating embarking on a career of thieving that an habitual thief will be dealt with severely.
- [10] In February, I decided that an appropriate starting point in a contested case on similar facts would have been a sentence of imprisonment for 7 years. Had I also been dealing with the 2 additional burglaries then, I would have fixed a starting point of 10 years.

- [11] There are no particular aggravating features to this offending that have not already been taken into consideration in arriving at the starting point.
- [12] For his early pleas of guilty and evidence of remorse, the prisoner's sentence is reduced by 3 years.
- [13] When dealing with the prisoner in February, I reduced his sentence by a further 10 months to take account of time spent in pre-sentence custody.
- [14] Had I been dealing with all matters together in February 2019, I would have sentenced the prisoner to imprisonment for 6 years and 2 months. To achieve the same outcome, I will impose that sentence for the matters I am dealing with today, order that the sentence be served concurrently with the sentence imposed in February, and direct that the sentence commence from 18 February 2019.
- [15] The prisoner is convicted on his pleas of guilty. Taking the above matters into account, he is sentenced to imprisonment on all 4 counts for 6 years and 2 months. Under section 28(2) of the *Penal Code*, I order that this sentence is to run from 18 February 2019.


Lambourne J
Judge of the High Court

