

IN THE COURT OF APPEAL, FIJI
ON APPEAL FROM THE HIGH COURT OF FIJI

Criminal Appeal No: AAU0031 of 2011
(on appeal from HAC119/2010)

BEFORE THE JUSTICE OF APPEAL, HON. JUSTICE PAUL K. MADIGAN

BETWEEN : **VERENIKI BATIKALOU** ***Applicant***

AND : **THE STATE** ***Respondent***

Counsel : Mr. J. Savou (L.A.C.) for Applicant
Ms M. Fong for the State

Dates of Hearing : 22 March 2013
Date of Judgment : 28 March 2013

JUDGMENT

1. This applicant applies for leave to appeal sentence to the full Court.
2. On the 16th March 2011, he was sentenced in the High Court in Suva, to a term of imprisonment of eight years (with a minimum of seven years before being eligible for parole) for one count of robbery, consequent to the applicant's own plea of guilty and agreement to a set of facts read to him.
3. The facts admitted by the applicant can be briefly summarized as follows:

At 6.40am on the 11th June 2010, a 42 year old German lady, working in Suva for the United Nations left home in Suva Point to go jogging. She had with her a shoulder bag which contained sunglasses and F\$20. When she was jogging along Queen Elizabeth Drive, near to Suva Grammar School, she was accosted by the applicant who wrapped his arms around her and carried her into some bushes on the other side of the road. He threw her on the ground and then snatched the bag from her and ran away.

4. The applicant at the time was a married man of 27 years and was homeless. He had been released from prison a week before and was rejected by his family. He had 13 previous convictions which were “alive”, most of which were for home invasions and theft.
5. The learned High Court Judge in passing sentence for this robbery *simpliciter* appears unfortunately to have relied on irrelevant authorities (including finding himself bound by a Magistrates’ Court sentence).
6. Sadly there is little guidance for sentencing Courts on this offence and it might well be time that the full Court be invited to assist in this regard.
7. The grounds of appeal against this sentence are at the very least arguable and it is a matter that should go to the full Court.
8. Pursuant to section 35(1)(a) of the Court of Appeal Act, I hereby give leave to this applicant to bring his appeal before the Full Court.

Paul K. Madigan
Judge of Appeal

At Suva
28 March 2013