

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Crim. Case No: HAC 149 of 2015

STATE

v.

USAIA KILAIVERATA

Counsel: Mr Delaney M. and Mr Kumar R. for State
Ms. Vaniqi S. for Accused

Hearing: 24th, 25th, 26th October 2016
Summing Up: 28th October 2016
Judgment: 01st November 2016
Sentence: 03rd November 2016

SENTENCE

1. Usaia Kilaiverata, you stand convicted for 1 count of Murder.

Statement of Offence

MURDER: Contrary to Section 237 of the Crimes Decree No. 44 of 2009.

Particulars of Offence

USAIA KILAIVERATA on the 4th day of April, 2015, at Suva in the Central Division, murdered **LOSANA McGOWAN**.

2. The brief facts of the case are, that in April 2015 you were living with the deceased Losana McGowan in a de-facto relationship at Flat No. 3, Yatu Lau Apartment, Amy Street, Toorak, Suva.
3. On 3rd April 2015 evening you were drinking alcohol with the deceased at GPH, Holiday Inn and then at Temptation 1 night club.
4. On 4th April 2015 (the next day) early hours you went to the apartment and you had an argument with Losana. You then punched her and when she fell on the floor, you kicked her face. When you saw the blood was coming out of her mouth, and that she didn't talk or move, then you tried to revive her, failing which you went and surrendered to the police station.
5. The penalty prescribed for Murder in terms of section 237 of the Crimes Decree 2009 is a mandatory sentence of imprisonment for life with a judicial discretion to set a minimum term to be served before pardon may be considered.
6. Therefore I sentence you to imprisonment for life.
7. Now I have to consider the minimum term you have to serve before pardon may be considered. I will take into account the seriousness of the offence, aggravating factors and mitigating factors.

Aggravating factors

8. This is a domestic violence as the deceased was your de-facto partner. It was not a single punch but you continued to kick the deceased on her face when she fell down after receiving your punch. Deceased received multiple injuries.

Mitigating factors

9. You voluntarily surrendered to police and co-operated with police. You are 30 years old and a first offender. There was no pre-planning on the assault. No weapons were used by you. I also take into account the period you were in custody for this case, that is 1 year and 7 months.
10. Taking all above matters into account I fix 18 years as the minimum period you have to serve before pardon may be considered.
11. Your final sentence is, imprisonment for life with a minimum period of 18 years to be served before pardon may be considered.




Priyantha Fernando
Judge

At Suva

03rd November 2016

Solicitors

Office of the Director of the Public Prosecutions for State.
Vaniqi Lawyers for Accused.