

**IN THE HIGH COURT OF FIJI**  
**AT LABASA**  
**[CRIMINAL JURISDICTION]**

**Criminal Case No. HAC 08 of 2018**

**BETWEEN:**           **THE STATE**

**AND:**                   **1.     IOSEFO AUMAILE**  
                              **2.     RAKANACE RABARO**

**Counsel:**       **Ms A Vavadakua for the State**  
                      **Mr V Tuicolo for both Accused**

**Date of Hearing:**     **15 March 2018**  
**Date of Sentence:**  **16 March 2018**

**SENTENCE**

[1]     On 13 March 2018, both Accused freely and voluntarily pleaded guilty to charges of aggravated burglary and theft. Both Accused are represented by counsel. The guilty pleas are informed and unambiguous. Both Accused are convicted as charged. I now pronounce sentence on them.

[2]     The facts are that on the evening of 3 February 2018, the two Accused broke into the office of Roadtech Tyre Limited and stole about \$1000.00 cash that was kept in the office. The first Accused was an employee of the company. He was employed as a casual labourer. He knew his employer had left cash inside the office on the night in question. He planned with his friend, the second Accused to break into the office and steal money. Entry was gained by climbing over the fence and forcefully opening the back entrance door using a metal pipe. They switched of the main switchboard to switch off the lights and security camera in order to disguise their identity in the dark.

After entering the building they broke the glass window to enter the office and forcefully opened the drawer where the cash was kept. They fled the scene with the cash and went on a spending spree on drinks and friends until the following morning when they got caught. Under caution, both Accused confessed to the crime. Only \$100.00 was recovered from them.

- [3] Both Accused entered early guilty pleas and have expressed remorse. They are 20 years old with previous good character. They have spent 2 weeks in custody on remand before released on bail.
- [4] The maximum penalty for aggravated burglary is 17 years imprisonment. The acceptable range is 18 months to 3 years imprisonment (*State v Sauvakalia* [2013] FJHC 520; HAC132.2010 (9 October 2013)). The maximum penalty for theft is 10 years imprisonment. The tariff depends on the nature of theft, but it can range from 2 months to 3 years imprisonment (*State v Saukilagi* [2005] FJHC 13; HAC0021X.2004S (27 January 2005)).
- [5] The mitigating factors are:
- Early guilty pleas.
  - Expression of genuine remorse.
  - Youth.
  - Previous good character.
- [6] The aggravating factors are:
- Breach of trust.
  - Disguising identity by switching off the security camera.
  - Damage to the property.
- [7] Taking all these factors into account, I sentence both Accused to 18 months imprisonment on each count. I have considered suspension. I decided to suspend the sentence for the following special circumstances:

- Both offenders are young.
- Their confessions to police and their early guilty pleas indicate they are genuinely remorseful.
- They have previous good character.
- They have accepted responsibility for their conduct – the chances of rehabilitation is high.
- There was no use of violence on any person.

[8] The sentence is suspended for 3 years. Both Accused is advised of the effect of breaching a suspended sentence. I further recommend that both Accused attend counselling at Medical Services Pacific for their antisocial behaviour.



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**Hon. Mr. Justice Daniel Goundar**

**Solicitors:**

Office of the Director of Public Prosecutions for the State  
Office of Legal Aid Commission for both Accused