

IN THE HIGH COURT OF FIJI
CRIMINAL JURISDICTION
AT SUVA

CRIMINAL CASE NO. HAC 76 of 2018

BETWEEN : STATE

AND : ROKO MATE

Before : Hon Mr Justice Daniel Goundar

Counsel : Ms U Tamanikaiyaroi for the State
Ms L Manulevu for the Accused

Date of Hearing : 27 March 2018

Date of Sentence : 3 April 2018

SENTENCE

[1] Roko Mate, you have freely and voluntarily pleaded guilty to one count of burglary and one count of theft. After hearing you in person and your counsel, I am satisfied that your guilty pleas are informed and unambiguous. You are convicted as charged. I now pronounce your sentence.

[2] The brief facts tendered by the prosecution are that on 30 January 2018, you broke into the vacant home of the victim during the daytime when he was at work. You stole a drilling machine, a pair of shoes and a jacket. The victim discovered the theft when he returned home in the afternoon. The estimated value of the stolen items was about \$700.00. All the stolen items were recovered with your cooperation. In your caution

interview, you said that you gained entry to the house by cutting the wall that was made of roofing iron. No evidence was led of the actual damage to the house.

- [3] You are 18 years old. You committed the offence shortly after receiving the result of your high school final external exam. You failed your exam. You come from a disadvantaged background. You have been raised by a single mother. Your counsel has advised the court that you wanted to enroll at a technical college but did not have the means to pay for studies. You resorted to crime.
- [4] The maximum penalty prescribed for burglary is 13 years imprisonment. The suggested tariff for burglary is between 1 to 3 years' imprisonment *Waqavanua v State* [2011] FJHC 247; HAA013.2011 (6 May 2011); *Uluicicia v State* [2015] FJHC 61; HAA028.2014 (30 January 2015).
- [5] The maximum penalty prescribed 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)).
- [6] In your case, there is no aggravating factor. But the mitigating factors are significant. You entered early guilty pleas. You have been consistent in your admission of guilt. You cooperated with police and confessed under caution. Stolen items were recovered by your cooperation. The court time and resources were saved by your early guilty pleas. Your previous good character and young age also mitigates your offending. You have spent 43 days in custody while on remand.
- [7] Taking all these factors into account, I sentence you to 12 months' imprisonment for each count of burglary and theft, to be served concurrently. I now consider whether I

should suspend the sentence. In *Nariva v The State* [2006] FJHC 6; HAA0148J.2005S (9 February 2006), Shameen J said:

The courts must always make every effort to keep young first offenders out of prison. Prisons do not always rehabilitate the young offender. Non-custodial measures should be carefully explored first to assess whether the offender would acquire accountability and a sense of responsibility from such measures in preference to imprisonment.

- [8] I accept that you are genuinely remorseful and will acquire accountability and a sense of responsibility if given a chance. Further, the crime that you committed did not involve use of violence. For these reasons, I suspend your sentence for 3 years [suspended sentence explained].
- [9] The recovered stolen properties are to be returned to the owner forthwith.



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Hon. Mr Justice Daniel Goundar

Solicitors:

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