

IN THE HIGH COURT OF FIJI
AT SUVA
[CRIMINAL JURISDICTION]

Criminal Case No. HAC 265 of 2018
[Magistrates' Court Criminal Case No. 1037 of 2018]

BETWEEN : STATE

AND : PENIJAMINI TALEMAITOGA

Counsel : Mr S Shah for the State
Ms L David for the Accused

Date of Hearing : 10 September 2018

Date of Sentence : 14 September 2018

SENTENCE

[1] Penijamini Talelaitoga, you have pleaded guilty to a charge of aggravated robbery contrary to section 311(1) (a) of the Crimes Act. You are represented by counsel. Your guilty plea is informed and competent. You are convicted as charged.

[2] The facts tendered by the prosecution and admitted by you are as follows:

On the 23rd of June, 2018 at around 6am while the Complainant was on his way to work, he was assaulted and robbed by the Accused with another person. The Complainant is a 50 year old male.

Whilst the Complainant was walking on the footpath along Kinoya Road, the Accused with another approached him. The Accused punched the Complainant on his left hand while the other person pulled the bag which the Complainant was carrying. The punch received by the Complainant caused him to fall down and thereafter, the Accused and other person continued to kick him. The injuries received by the Complainant comprised of a deep

laceration on his lower lip, abrasions on his chin, bilateral knees and both elbows; a copy of the Medical Report is annexed and marked as "A".

The Complainant's bag which was stolen contained \$160.00 cash money. The Complainant reported the matter to Valelevu Police Station. There was an Eye witness in the incident who knew the Accused and the other person as the Accused person was from the same neighbourhood as the Complainant and the Eye Witness. Leads were obtained from this Eye Witness which led to the arrest of the Accused and the other person few minutes after the offending. The Accused and the other person were arrested from a house in the same neighbourhood where they were drinking alcohol.

The Accused person was interviewed under caution on 24th June, 2018 and subsequently charged for Aggravated Robbery contrary to section 313(1)(a) of the Crimes Act 2009.

The Accused admitted to the offence in his caution interview; a copy of the Accused's Record of Interview is annexed and marked as "B".

The Accused is a first time offender.

- [3] In sentencing, the court must have regard to the objective seriousness of your offence. Aggravated robbery is considered a serious offence. The maximum penalty prescribed for this offence is 20 years imprisonment. The tariff for a spate of aggravated robbery is 8 to 16 years imprisonment (*Nawalu v State* [2013] FJSC 11; CAV0012.12 (28 August 2013)) while for a single episode of street mugging the tariff is 18 months to 5 years imprisonment (*Raqauqau v State* [2008] FJCA 34; AAU0100.2007 (4 August 2008)).
- [4] You have committed a single episode of street mugging in the company of another person. I pick 3 years as a starting point.
- [5] You are 22 years old and a first time offender. You come from a disadvantaged background. You dropped out of school after completing Year 8. Your father passed away in 2012 and you reside with your mother. You earn a living by doing casual work.

- [6] Your strongest mitigating factor is your early guilty. By entering an early guilty plea you have demonstrated to this Court that you are genuinely remorseful for your conduct. Further, you have saved court time and resources by pleading guilty at a very early stage of the proceedings. I give you a discount of one third for your guilty plea and a further separate discount for your previous good character.
- [7] In assessing the seriousness of your actual conduct, the Court must have regard to the circumstances and nature of your offending. You attacked an innocent 50-year old man in the company of another on a street. The victim was beaten before you took off with his money. The physical injuries sustained by the victim are an aggravating factor.
- [8] The courts have a duty to protect the members of the public from this kind of attack. People should feel free to walk on the streets without fear of being mugged. Your conduct of mugging a person on the street must be denounced and deterred. Street mugging is too prevalent in our community. The courts must send a clear message that anti-social behavior of this type will be dealt with condign punishment.
- [9] Finally, you have been in custody on remand for about 2 ½ months. I make a downward adjustment to your sentence to reflect your remand period.
- [10] Taking all these factors into account I sentence you to 3 years' imprisonment. I think you have a good prospect to rehabilitate. I decline to fix a non-parole period.



A handwritten signature in blue ink, appearing to read "Daniel Goundar".

.....
Hon. Mr Justice Daniel Goundar

Solicitors:

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