

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO.: HAC 211 OF 2019

STATE

-v-

1. SOLOMONI BULEWA

2. MELI RAVUA LIMA

Counsel : Ms. M. Cowdhury for Prosecution

Ms. L. David for 1st Accused

Ms. T. Kean for 2nd Accused

Date of Sentence: 25 October 2019

SENTENCE

1. Solomoni Bulewa and Meli Raivua Lima, you stand convicted of one count of Aggravated Burglary and one count of Theft on the following information:

COUNT 1

Statement of Offence

AGGRAVATED BURGLARY: Contrary to Section 313(1) (a) of the Crimes Act 2009.

Particulars of Offence

SOLOMONI BULEWA and MELI RAVUA LIMA on 25th May 2019 at Walu Bay in the Central Division, in the company of each other broke and entered into the premises of SOLANDER PACIFIC LIMITED as trespassers, with intent to commit theft.

COUNT 2

Statement of Offence

THEFT: Contrary to Section 291(1) of the Crimes Act 2009.

Particulars of Offence

SOLOMONI BULEWA and MELI RAVUA LIMA on 25th May 2019 at Walu Bay in the Central Division, in the company of each other dishonestly appropriated (stole) pairs of gumboots and wet suits, the properties of SOLANDER PACIFIC LIMITED with the intention of permanently depriving SOLANDER PACIFIC LIMITED of the said properties.

2. Both of you pleaded guilty to each count on your own free will. You understood the consequence of the guilty plea and the sentencing tariffs for offences you have committed. I am satisfied that the guilty pleas are informed and unequivocal and entered freely and voluntarily.

3. You agreed the following summary of facts when it was read to you in court. The facts agreed satisfy all the elements of each offence you are charged with. You are found guilty and convicted on each count as charged.

4. The facts you agreed are that:
 - i. Accused 1 is Solomoni Bulewa, (DOB 08/06/90), a Fijian man of I-taukei descent, who was aged 28 years, 10 months and 18 days on 26 April 2019, employed at Solander Pacific Limited and resided in Narere.

 - ii. Accused 2 is Meli Ravua Lima, (DOAB 30/07/94), a Fijian man of I-taukei descent, who was aged 24 years, 08 months and 07 days on 26 April 2019, student, attached with Solander Pacific Limited and resided at Muanikoso Housing.

 - iii. The victim is Solander Pacific Limited, a fishing company based at Muaiwalu Complex, Rona Street, Walu Bay, Suva, Fiji.

Count 1 (Aggravated Burglary)

- iv. At about 1900 to 1930 hours on 25 May 2019, Accused 1 hand used a metal triangular file to break into and enter the locked office of the Assistant General Manager of the said Solander Pacific Limited as Accused 1 and Accused 2 had intended to steal from inside there. After breaking into the said office Accused 1 had then entered into the adjoining storeroom to steal gumboots and wetsuits which were kept inside the said storeroom. Accused 2 had remained outside the said office and waited for Accused 1 to bring out stolen gumboots and wetsuits belonging to Solander Pacific Limited.

Count 2 (Theft)

- v. After a while Accused 1 brought out 04 wetsuits, worth \$60.00 each, and 04 pairs of white gumboots worth FJ\$35.00 each which he had packed in a sack and handed them to Accused 2 and together they went away from Solander Pacific's premises.

Cautioned Interviews

- vi. As a result of Police investigations, Accused 1 and Accused 2 were arrested on 27 May 2019 and subsequently interviewed under caution whereby both accused persons voluntarily admitted to acting together to break into the storeroom at Solander Pacific Limited at Walu Bay on 25 May 2019 and stealing 04 pairs of gumboots and 04 pairs of wetsuits from therein.]
- vii. Accused 1 had voluntarily admitted to breaking into the storeroom at the said premises of Solander Pacific Limited between 7pm to 7.30pm on 25 May 2019 by using a triangular to break into the Manager's office while Accused 2 had remained outside waiting for him. Accused 1 had voluntarily admitted that after entering into the Manager's office he had gone inside the adjoining storeroom first and brought out 04 wetsuits and later he went in again and brought out 04 pairs of gumboots which he had packed in a sack. Accused 1 voluntarily admitted that after this he with Accused 2 and 02 others had gone away with the said stolen wetsuits and gumboots in a rental car to Nabua. At Nabua Accused 1 had sold 01 wetsuits and 01 pair of gumboots to another for \$20.00 each (attached: Record of Interview of Solomon Bulewa).
- viii. Accused 2 had voluntarily admitted to assisting Accused 1 at the material time by passing 04 stolen wetsuits to Accused 1 and that he had just wanted to assist Accused 1 despite knowing what Accused 1 was doing was wrong so they could supplement their wages as they were receiving only \$50.00 as wages for working on Saturday and Sunday. Accused 2 voluntarily admitted they then took the stolen

items away in a rental car to Nabua where they managed to sell 01 wetsuit and 01 pair of gumboots (attached: Record of Interview of Meli Ravua Lima).

Recoveries

- ix. As a result of Police investigations and the cooperation of both accused persons 02 pairs of stolen gumboots and 02 wetsuits were recovered.

5. The maximum punishment for Aggravated Burglary is an imprisonment term of 17 years and the maximum punishment for Theft is an imprisonment term of 10 years.

6. The tariff for the offence of Aggravated Burglary ranges from 18 months to 3 years imprisonment. This tariff has been adopted in several decided cases: State v. Mikaele Buliruarua [2010] FJHC 384; HAC 157.2010 (6 September 2010); State v. Nasara [2011] FJHC 677; HAC 143.2010 (31 October 2011); State v. Tavualevu [2013] FJHC 246; HAC 43.2013 (16 May 2013); State v. Seninawanawa [2015] FJHC 261; HAC 138.2012 (22 April 2015); State v. Seru [2015] FJHC 528; HAC 426.2012 (6 July 2015); State v. Drose [2017] FJHC 205; HAC 325.2015 (28 February 2017); and State v. Rasegadi & Another [2018] FJHC 364; HAC 101.2018 (7 May 2018) and recently in State v Tukele - [2018] FJHC 558; HAC179.2018 (28 June 2018).

7. The tariff for Theft ranges from 4 months to 3 years' imprisonment: Waga v State [HAA 17 of 2015].

8. In view that you were convicted based on the same facts, I would impose an aggregate sentence for both counts in terms of section 17 of the Sentencing and Penalties Act.

9. In assessing the objective seriousness of your offending, I take into consideration the degree of culpability in your offending and the loss or harm caused to the complainant. Having considered these factors, I would pick a starting point of 24 months.
10. The aggravating features of your offences are that you pre-planned these offences. The offences you have committed are all too frequent in Fiji. You have committed these offences while being employed by the complainant. You have breached the trust of the employer. I add 6 months for the aggravating feature to reach 30 months.
11. Now I proceed to consider the mitigating factors on individual basis.

Solomoni Bulewa

12. Solomon Bulewa, you are 28 years of age, a young father of 2 children. While working for the complainant company, you were studying engineering at NPTC. The character reference by the Fleet Engineer of your company shows that you had been a reliable and dependable character until you had committed these offences. You are a first offender. You have sought forgiveness from the complainant and promised not to reoffend. You have cooperated with police investigations and helped to recover the part of the stolen items. You seek mercy of this court. I deduct 12 months for these mitigating features to arrive at a sentence of 18 months.
13. You pleaded guilty at the first available opportunity to both counts. I consider early guilty pleas as evidence of genuine remorse. You have saved court's time and resources by pleading guilty to the charges at a very early stage of the proceedings. I give a full third deduction to arrive at a sentence of 12 months' imprisonment.

14. You have been in remand for approximately 2 month. Your remand period is separately deducted. Now your final aggregate sentence is 10 months' imprisonment.

Meli Raivua Lima

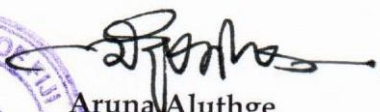

15. Meli Raivua Lima, you are 25 years of age and single. You are a trainee at marine engineering and also enrolled to follow a marine course at Fiji National University. You have cooperated with police and helped the police to recover part of stolen items. You seek mercy of this court. You have promised not to reoffend and you beg for one more chance to rehabilitate yourself. You are also a first offender. I deduct 12 months for above mentioned mitigating features to arrive at a sentence of 18 months' imprisonment.
16. You pleaded guilty at the first available opportunity to both counts. I consider the early guilty pleas as evidence of genuine remorse. You have saved court's time and resources by pleading guilty to the charges at a very early stage of the proceedings. I give a full third deduction to arrive at a sentence of 12 months' imprisonment. You have been in remand for approximately 2 months. Your remand period is separately deducted. Meli, now your final aggregate sentence is 10 months' imprisonment.
17. Your anti-social behaviour must be denounced. The sentence I pass must reflect the offences you have committed. Both of you have breached the trust of your employer. To deter you and other potential offenders, a custodial sentence is inevitable in this case. However, both of you are young and first offenders with promising career prospects. Therefor I would suspend 6 months of your sentence for a period of two years. Now your final sentences are as follows:

Summary

Solomoni Bulewa, you are sentenced to 10 months' imprisonment. You are to serve 4 months of the sentence in a correction centre with immediate effect. The balance period of 6 months is suspended for a period of 2 years.

Meli Raivua Lima you are sentenced to 10 months' imprisonment. You are to serve 4 months of the sentence in a correction centre with immediate effect. The balance period of 6 months is suspended for a period of 2 years.

18. If you are found guilty of an offence in the coming 2 years, the suspended sentence may be activated.
19. 30 days to appeal to the Court of Appeal.

Aruna Aluthge
Judge

At Suva

On 25 October, 2019

Counsel: Office of the Director of Public Prosecution for State

Office of the Legal Aid Commission for Defence