

IN THE HIGH COURT OF FIJI AT SUVA

CASE NO: HAC. 413 of 2018

[CRIMINAL JURISDICTION]

STATE

V

1. A.G.

2. J.S.P.

Counsel : Ms. M. Konrote for State
Ms. A. Prakash for 1st Accused
Ms. T. Kean for 2nd Accused

Hearing on : 04 February 2019

Sentenced on : 18 February 2019

[No newspaper report or radio broadcast of the proceedings shall reveal the name, address or school, or include any particulars calculated to lead to the identification of the above juveniles]

PUNISHMENT

1. A.G and J.S.P. you pleaded guilty to one count of aggravated robbery contrary to section 311(1)(a) of the Crimes Act on your freewill and this court found you guilty as charged. Your charge reads thus;

Statement of Offence

Aggravated Robbery: contrary to section 311 (1)(a) of the Crimes Act of 2009.

Particulars of Offence

A.G. and **J.S.P.** in the company of another on the 21st day of October, 2018 at Nanuku Street Vatuwaqa, in the Central Division, robbed Pramil Kumar of one Casio Wrist Watch the property of Pramil Kumar.

2. The summary of facts you have admitted to are as follows;

The First Juvenile – A.G. is 17 years of age, unemployed of Wailea, Street, Vatuwaqa, Suva.

The Second Juvenile – J.S.P 16 years of age, unemployed of Molau Place Vatuwaqa, Suva.

The Complainant – Pramil Kumar is 49 years old, Property Maintenance Officer of Nanuku Settlement, Vatuwaqa, Suva.

On the 21st day of October, 2018 at around 12.10am the complainant was walking home along Fletcher Road after returning from attending a religious function. As soon as the complainant turned into Nanuku Street he felt someone behind him as PW1 turned around the 1st Juvenile forcefully held the complainant from behind and wrapped his hands around the complainant's body. The 2nd Juvenile then felt inside the complainant's pockets but the complainant had nothing inside his pockets except his house key. The complainant said that there were three boys involved in the incident. After robbing the complainant the 1st Juvenile and the second Juvenile in the company of another were walking away with the complainant's house key the complainant then called out to them and asked them to return his house keys. One of the boys then gave the complainant his key back and asked the complainant to give them his watch. The complainant gave them his watch as he was afraid. The watch was worth \$69.00. The boys then ran away towards Fletcher Road. The complainant met a police officer at the intersection of Kaunitoni Street and Nanuku Road and the police assisted the complainant. The complainant got into the police vehicle and as they drove along Wailea Street the police saw three boys hiding in one of the compounds. One of the boys escaped and the 1st Juvenile and 2nd Juvenile were arrested by police. The complainant positively identified the Juveniles as the people that had robbed him. At the police station the complainant also positively identified the wrist watch which was recovered by police from the Juveniles as the one that had been stolen from him.

The Juveniles were then charged by police for the offence Aggravated Robbery.

The total value of the property stolen being \$69.00.

The Juveniles were taken into custody and interviewed under caution whereby they both made full admissions. The 1st Juvenile mad admissions from questions and answers 33 onwards. [A copy of the Records of Interview is annexed as Annexure

A].

The 2nd Juvenile made admissions from questions and answers 26 onwards. [A copy of the Records of Interview is annexed as Annexure A].

3. The tariff endorsed by the Supreme Court for the offence of aggravated robbery in the case of *Wise v State* [2015] FJSC 7 is an imprisonment term between 8 and 16 years. The maximum penalty for the said offence in terms of section 311 of the Crimes Act is an imprisonment term of 20 years.
4. However, both of you fall under the category of 'young persons' under the Juveniles Act given your age and in terms of the provisions of section 30(3) of the Juveniles Act a young person shall not be ordered to be imprisoned for more than 2 years.
5. The nature of the offending in this case is serious. At your age, you should be focusing on getting a proper education to secure a better future and not on robbing innocent people in the middle of the night.
6. The 2013 Constitution guarantees every citizen and every other person lawfully in Fiji the right to move freely throughout Fiji. There should not be any reason for a person to be afraid of walking on the streets at any time of the day. You have robbed a 49 year old man around midnight and this victim was returning home after a religious function. Your conduct amounts to a serious breach of peace and of public tranquility. In fact, you have committed the most serious offence against property under Part 16 of the Crimes Act.
7. Both of you are first offenders. The item you stole was recovered. It was a watch worth \$69.00. You have accepted the responsibility of your actions and you have done this at an early stage.

8. Having considered all the facts before this court including the early guilty plea you have entered, I would impose on each of you a term of 10 months imprisonment.
9. Given the circumstances of this case and the seriousness of the offence you have committed, I find it necessary for you to serve at least half of the above term of imprisonment. However, considering the fact that you are on bail and after listening to each of you and your respective mothers in open court, I have decided to suspend your punishment.
10. The prosecution submits that you have spent 17 days in custody in relation to this matter. The said period you have spent in custody should be regarded as a term already served in terms of section 24 of the sentencing and Penalties Act in the event you are to serve your sentence.


Punishment of A.G.

11. Your mother informed this court that she had made arrangements for you to go to your village and for you to engage in farming. You have given this court an undertaking that you will listen to your mother.
12. Your punishment is a term of 10 months imprisonment and this punishment is suspended for 3 years.
13. However, taking into account the seriousness of your antisocial behavior and the failure of your parents to guide you in the correct path, I would order your mother to pay a fine of \$50. I make this order in terms of section 32(1)(c) of the Juveniles Act. This fine should be paid at the Suva High Court Criminal Registry on or before 18/07/19.

Punishment of J.S.P.

14. Your mother informed this court that she had made arrangements for you to attend a vocational school. You have given this court an undertaking that you will listen to your mother and act accordingly.
15. Your punishment is a term of 10 months imprisonment and this punishment is suspended for 3 years.
16. Taking into account the seriousness of your antisocial behavior and the failure of your parents to guide you in the correct path, I would order your mother to pay a fine of \$50. I make this order in terms of section 32(1)(c) of the Juveniles Act. This fine should be paid at the Suva High Court Criminal Registry on or before 18/07/19.
17. The court clerk will explain you the effects of a 'suspended punishment'.
18. It is hereby ordered in terms of the provisions of section 12(1) of the Juveniles Act that no newspaper report or radio broadcast of the proceedings of this case shall reveal the name, address or school, or include any particulars calculated to lead to the identification of the above juveniles.
19. Thirty (30) days to appeal to the Court of Appeal.




Vinsent S. Perera
JUDGE

Solicitors:

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