

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

High Court Criminal Case No. HAC 281 of 2019

BETWEEN : STATE

AND : MANASA ROKOTUIVEIKAU

Counsel : Ms Sharma S. for the State  
Ms Kean T. for the Accused

Date of Hearing : 23 November 2020

Closing speeches : 24 November 2020

Date of Summing up: 25 November 2020

Date of Judgment : 26 November 2020

Date of Sentence : 07 December 2020

**SENTENCE**

1. You, Manasa Rokotuiveikau are to be sentenced upon being convicted for one count of aggravated robbery contrary to Section 311(1)(a) of the Crimes Act.

2. On 14 July 2019 at around 2 am the complainant was returning home after going on fishing. When the complainant reached Duvula junction you started following the complainant with another person. The complainant was punched on his face and when he fell down and you snatched his Samsung J 2 mobile phone. You then fled the scene with the other. A by stander who witnessed the incident came to help the complainant and you were known to him. Later you were arrested and were charged for aggravated robbery. After a full trial you were found guilty and you were convicted for aggravated robbery.
3. The maximum sentence for aggravated robbery is imprisonment for 20 years.
4. The tariff for aggravated robbery depends on the nature and circumstances of offending. In *Qalivere V State* (2020) FJCA 1; AAU71.2017(27 February 2020) the Court of Appeal stated that;

“Low threshold robbery, with or without less physical violence, is sometimes referred to as Street-mugging informally in common parlance. The range of sentence for that type of offence was set at eighteen months to five years by the Fiji Court of Appeal in *Raqauqau’s* case.”

5. In *Tawake v State* [2019] FJCA 182; AAU0013.2017 (3 October 2019) the Court of Appeal substituted a sentence of 9 years and 6 months with a sentence of 3 years and 2 months where a person was assaulted with a knife and an iron rod before \$20 was robbed by a neighbor and another person. Further the Court of Appeal remarked the following while picking the appropriate tariff based on the circumstances of offending;

“34] The trend followed recently in the High Court (***State v Matagasau*** [2019] FJHC 633; HAC17.2019 (28 June 2019); ***State v Ketewai*** [2019] FJHC 468; HAC210.2018 (21 May 2019) is to treat cases such as these where the incidents have taken place in the streets unlike in ***Wallace Wise*** (Supra) differently and adopt the approach

in **Raqauqau** (Supra) where the tariff for instances of street mugging was set at 18 months to 5 years. However, it would be necessary to be mindful of the dicta in **Raqauqau** (Supra) that the upper limit of 5 years might not be appropriate 'if the offences are committed by an offender who has a number of previous convictions and if there is a substantial degree of violence, or if there is a particularly large number of offences committed'.

[35] The adoption of the tariff in **Wise** (Supra) does not seem to be appropriate to the present case as it does not come within the nature of a home invasion category of aggravated robbery and is a situation which would come within the type of street mugging cases. Considering the objective seriousness of the offending and the degree of culpability, the harm and loss caused to the complainant it would be appropriate to follow the sentencing pattern suggested for instances of street mugging".

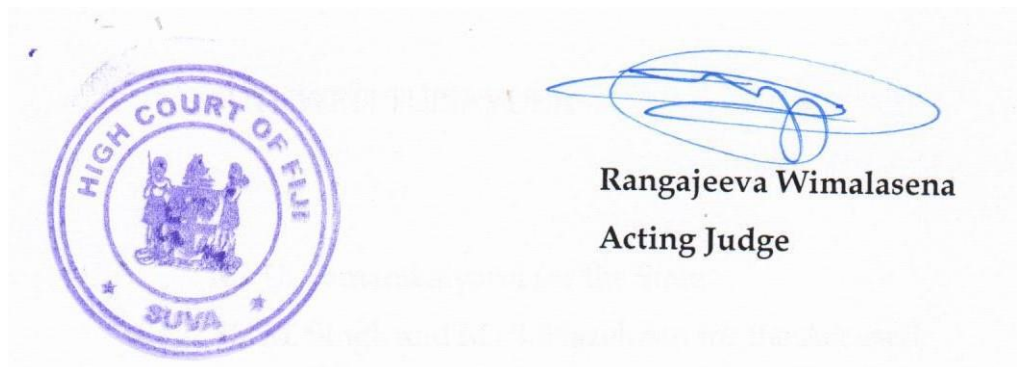
6. In light of the above sentencing approaches adopted by the Court of Appeal and the circumstances of this case I am inclined to adopt 18 months to 5 years imprisonment as the appropriate tariff for this case.
7. You did not use any weapon or high degree of violence. Having regard to the objective seriousness of offending, level of culpability and the harm caused to the complainant I pick 3 years as the starting point.
8. I do not find any notable aggravating factors in your offending.
9. In mitigation it was submitted that you are 20 years old and single. You are the youngest in the family and your father has passed away. It was also submitted that you seek leniency and promise not to reoffend. You have no previous convictions. For the mitigating factors I deduct one year from your sentence.

10. Accordingly, I impose 2 years imprisonment on you.

11. It was submitted that you were in remand custody for this matter from 24 July 2019. However, you had not been in custody from 17 October 2019 till 28 January 2020. You were again remanded on 28 January 2020 and you have been in custody since then. According to section 24 of the Sentencing and Penalties Act the time you were in custody must be regarded as a period of imprisonment already served by you. Therefore, I decide to deduct 13 months from your sentence to reflect the time you were in custody.

12. Accordingly, you must serve a period of 11 months imprisonment.

30 days to appeal to the Court of Appeal



**At Suva**

07 December 2020

**Solicitors**

Office of the Director of Public Prosecutions for the State

Office of Legal Aid Commission for the Accused