

IN THE HIGH COURT OF FIJI

AT SUVA

[CRIMINAL JURISDICTION]

CRIMINAL CASE NO. HAC 051 OF 2020

BETWEEN : STATE

AND : RICHARD LOGANIMOCE
PENI VODIVODI

Counsel : Ms W Elo for the State
Ms A Singh for both Accused

Date of Hearing : 2 June 2020

Date of Sentence : 4 June 2020

SENTENCE

- [1] Both offenders have pleaded guilty to aggravated burglary and theft.
- [2] The facts are that on the night of 1 January 2020 the offenders entered into the dwelling house of Vimlesh Deo at Khalsa Road and stole the following items:
- 1 x Radio valued at \$45.00;
 - 1 x smart DVD Player valued at \$150.00;
 - 1 x Vibrating Plate Training Machine valued at \$350.00;
 - 1 x Gold Jewellery (Necklace) valued at \$550.00;
 - 1 pink wallet containing \$110.00 cash, ID Cards, Bank Cards;
 - 1 x Blue side purse containing \$50.00 in cash;
 - 1 x Silver Clutch valued at \$30.00;
 - 1 x Black Adidas bag valued at \$18.00;

- 1 x Nakita brand iron valued at \$45.00;
- 1 x wedding ring valued at \$150.00;
- Canteen coins valued at \$15.00 in total;
- 1 x grey & green striped t shirt valued at \$18.00.

[3] The entry to the house was made through the window after removing the mess wire and louver blades. The complainant was not at home at the time. He found out his house was broken into when he returned home later that night.

[4] Some of the stolen items were found in possession of the offenders following their arrest. Under caution, both confessed to the crimes.

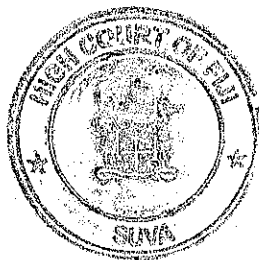
[5] The first offender has a disadvantaged background. He was raised by his mother and elder sister after his father passed away in 2005. Due to financial hardship he dropped out of school at Form 4. In 2017 he left his home and had been living with a relative. He never had a job to sustain himself.

[6] The second offender had a more stable environment. He was raised by his mother. He completed his high school and passed his external exam. After completing his high school he had been unemployed.

[7] The offences are objectively serious. Aggravated burglary is punishable by 17 years' imprisonment while theft is punishable by 10 years' imprisonment. I treat both offences as part of one transaction to consider an aggregate sentence. I guide myself with the tariff for domestic burglary, which is 18 months to 3 years imprisonment, with suspension of sentence reserved for the young first time offender.

[8] The aggravating factors are that a dwelling house was burgled and items of sentimental value such as jewellery and wedding ring were stolen when the owner was not at home. The primary purpose of sentence for burglary and theft is deterrence, both special and general, as these offences are prevalent in our community. However, these factors need to be balanced with the mitigating factors present in this case.

- [9] Both offenders are 19 years of age. They pleaded guilty and cooperated with the police. There had been a partial recovery of the stolen items. The second offender is a first time offender.
- [10] The first offender has a previous conviction for robbery which he had committed on 16 April 2019. On 7 June 2019 he was sentenced to 2 years imprisonment suspended for 3 years after he pleaded guilty to the offence in the Magistrates' Court at Nasinu. He committed the offences in this case while his suspended sentence was operational. He is lucky that he is not charged with breach of a suspended sentence. For him the prospect of rehabilitation is less when compared with the second offender.
- [11] The final matter to be considered is the remand periods. The first offender has been in custody on remand for 6 months. The second offender's remand period is 2 months.
- [12] Taking all these matters into account both offenders are convicted and sentenced to an aggregate term of 18 months' imprisonment. The second offender's sentence is suspended for 3 years. Suspension of sentence for the first offender is not appropriate because he reoffended while serving a suspended sentence.
- [13] Recovered stolen items are restored to the owner.
- [14] Suspended sentence explained to the second offender.



A handwritten signature in black ink, appearing to be "DG", followed by a horizontal line extending to the right.

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Hon. Mr Justice Daniel Goundar

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