

IN THE HIGH COURT OF FIJI

AT SUVA

[CRIMINAL JURISDICTION]

CRIMINAL CASE NO: HAC 090 OF 2020

CRIMINAL CASE NO: HAC 095 OF 2020

BETWEEN : STATE

AND : INOSI NATAI KOTOISUVA

Counsel : Ms S Tivao for the State
Mr E Radio for the Accused

Date of Hearing : 18 June 2020

Date of Sentence : 3 July 2020

SENTENCE

- [1] The Accused has pleaded guilty to two charges of aggravated robbery contrary to section 311(1) (a) of the Crimes Act. The statutory aggravation is that the offences were committed in company of others. The first robbery was committed on 17 February 2020. The second robbery was committed five days later on 23 February 2020. In both instances, the victims were taxi drivers.
- [2] In both cases the Accused together with two other men got into the victims' taxis in the pretext of hiring them. The victims were taken to secluded locations and robbed using physical violence. In the first case, the 53- year old victim sustained three knife wounds. The offenders stole \$210.00 cash and mobile phone from this victim. In the second case, the offenders jabbed the 37-year old victim from behind before pulling him out of the vehicle and stealing his mobile phone and \$150.00 cash. The stolen items had not been recovered.

[3] A week later the Accused was arrested and interviewed under caution. He made a full and frank admissions and had apologized to the victims in his caution interview. Consistent with his admissions to police he entered early guilty pleas. He regrets his actions. His remorse is genuine. He saved the court's time and resources by pleading guilty early. I grant him a one third reduction in sentence for these factors. He is granted a further reduction in sentence because he is a young and a first time offender. He is 20 years of age with no prior history of using violence.

[4] However, despite the presence of strong mitigating factors, a custodial sentence is inevitable. The offences are objectively serious. Aggravated robbery is punishable by 20 years imprisonment. In *Wise v State* [2015] FJSC 7; CAV0004.2015 (24 April 2015), the Supreme Court recommended the following tariff at [25]:

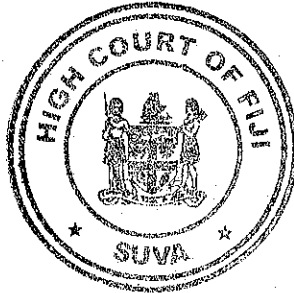
We believe that offences of this nature should fall within the range of 8-16 years imprisonment. Each case will depend on its own peculiar facts. But this is not simply a case of robbery, but one of aggravated robbery. The circumstances charged are either that the robbery was committed in company with one or more other persons, sometimes in a gang, or where the robbers carry out their crime when they have a weapon with them.

[5] Previously, the courts have used a tariff of 4 to 10 years' imprisonment for robbery of taxi drivers (*Joji Seseu v State* [2003] HAM043/03S (10 December 2003); *Peniasi Lee v State* [1993] AAU 3/92 (apf HAC 16/91), *State v Tamani* [2011] FJHC 725; HAC290.2011 (11 November 2011).

[6] In the present case, there was a degree of planning involved in the commission of the offences. Taxi drivers were targeted on two separate occasions. Taxi drivers provide public transport service. The courts must denounce and deter any use of violence on them in the course of their employment. Both victims in their impact statements have said that they feared driving taxis after the incidents. As a result they lost earnings to sustain their family.

[7] In both instances the victims were subjected to physical violence. In one instance, a knife was used to inflict physical injuries on the victim. Fortunately, the injuries were not life threatening.

- [8] The final factor that the Court takes into account is that the Accused had been in custody on remand since he was arrested in February 2020.
- [9] In both cases, the Accused is convicted and sentenced to an aggregate term of 6 years' imprisonment with a non-parole period of 3 years.



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Hon. Mr Justice Daniel Goundar

Solicitors:

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