

**IN THE HIGH COURT OF FIJI AT SUVA**

**CASE NO: HAC. 198 of 2019**

**[CRIMINAL JURISDICTION]**

**STATE**

**V**

**JONASA ROKOLEKAI**

**Counsel** : Ms. U. Tamanikaiyaroi & Mr. U. Lal for the State  
Ms. A. Singh for the Accused

**Date of Sentence** : 05 October, 2020

**SENTENCE**

1. Jonasa Rokolekai, you stand convicted of the offence of aggravated robbery contrary to section 311(1) of the Crimes Act 2009 upon you pleading guilty to the relevant charge.
2. Your charge reads thus;

*Statement of Offence*

**AGGRAVATED ROBBERY:** contrary to Section 311 (1) (a) of the Crimes Act, 2009.

*Particulars of Offence*

**JONASA ROKOLEKAI WITH ANOTHER** on the 18<sup>th</sup> day of May 2019, at Suva in the Central Division, in the company of each other committed theft of assorted properties, namely FJ\$1,000 cash and CNY\$200 Chinese Yuan currency approximately FJ\$60.00 belonging to **GIANT WHALE**

**SHOP** and immediately before committing theft, used force on **GUO JIN HUAN**.

3. You have admitted the following facts;

**The Complainant:** Guo Jin Huan (“the complainant”), 55 years old at the time of offence, Cashier of Giant Whale Shop, Suva.

**The Accused:** Jonasa Rokolekai (“the accused”), 26 years old at the time of offence, Delivery Boy of Tamavua-i-wai.

1. On 18<sup>th</sup> May 2019 at around 2.15pm at Giant Whale Shop, Walu Bay, the complainant who was the cashier at the said Shop, was seated behind the counter where the cash till was located when 2 i-taukei males entered the shop, one of them being the accused who wore a round hat (ROI-Q&A 57).
2. At the time the accused walked into the shop he held in his hand a sizeable piece of broken cement block which he had picked up outside the shop (ROI-Q&A 60), and upon approaching the complainant, threw the said cement block directly at the complainants face (ROI-Q&A 62-63).
3. The accused went behind the front counter and as the complainant tried to push the accused away, he hit her chest with his elbow (ROI-Q&A 64) and then rushed out of the shop and fled the crime scene, the second unknown person also fled the scene shortly after the accused. The complainant reported to police that \$1,000 FJD cash and CYN200 Chinese Yuan currency (approximately FJ\$60.00) was stolen from the shop. No properties were recovered by police.
4. The accused was interviewed under caution by police and upon having the allegations put to him made the above admissions as noted above [**Copy of Caution Interview is attached**]. Further to the same, the accused was shown the broken cement block and admitted that it was the same piece of cement he had thrown at the complainant as he entered the shop (ROI 82), the broken cement block is exhibited as “prosecution exhibit 1”.
5. During police investigations, CCTV footage of the robbery was uplifted from the crime scene. The accused was shown the CCTV footage of the robbery that took place at Giant Whale Shop on 18<sup>th</sup> May 2019, and admitted that he was one of the boys

*who robbed Giant Whale Shop (ROI- 88), the CCTV footage is exhibited as "prosecution exhibit 2".*

4. The maximum sentence for the offence of aggravated robbery contrary to section 311(1) of the Crimes Act is 20 years imprisonment. The tariff for this offence is an imprisonment term between 8 to 16 years. [*Wallace Wise v The State*, Criminal Appeal No. CAV 0004 of 2015; (24 April 2015)]
5. Explaining the aggravating circumstances of the offence of robbery with violence under the now repealed Penal Code Goundar J said in the case of *State V Rokonabete* [2008] FJHC 226 that;

*"The dominant factor in assessing seriousness for any types of robbery is the degree of force used or threatened. The degree of injury to the victim or the nature of and duration of threats are also relevant in assessing the seriousness of an offence of robbery with violence."*
6. In your mitigation it is submitted that you are 26 years old and that you are separated from your wife. Prior to your arrest for this matter, you were employed as a delivery boy.
7. I would select 8 years imprisonment as the starting point of your sentence.
8. In identifying the aggravating factors I would seek guidance from the judgment of the Supreme Court in *Wise v State* [2015] FJSC 7; CAV0004.2015 (24 April 2015) where the court observed thus;

*[26] Sentences will be enhanced where additional aggravating factors are also present. Examples would be:*

- (i) offence committed during a home invasion.*
- (ii) in the middle of the night when victims might be at home asleep.*
- (iii) carried out with premeditation, or some planning.*

- (iv) committed with frightening circumstances, such as the smashing of windows, damage to the house or property, or the robbers being masked.*
- (v) the weapons in their possession were used and inflicted injuries to the occupants or anyone else in their way.*
- (vi) injuries were caused which required hospital treatment, stitching and the like, or which come close to being serious as here where the knife entered the skin very close to the eye.*
- (vii) the victims frightened were elderly or vulnerable persons such as small children.*

*[27] It is our duty to make clear these type of offences will be severely disapproved by the courts and be met with appropriately heavy terms of imprisonment. It is a fundamental requirement of a harmonious civilized and secure society that its inhabitants can sleep safely in their beds without fear of armed and violent intruders.*

9. You have thrown the cement block you had with you, directly at the complainant's face causing an injury and also assaulted the complainant on her chest using your elbow. Accordingly, it is clear that you have unleashed a substantial amount of violence when you committed the offence. I would consider these as aggravating circumstances and would add 03 years to your sentence in view of same.
10. You are said to be a first offender. I would grant you a discount of 02 years on that account.
11. Now your sentence is an imprisonment term of 09 years.
12. You pleaded guilty after this court ruled your cautioned interview admissible after going through a *voir dire* hearing. Therefore, even though you have saved the courts time to a certain extent, your guilty plea is not a true reflection of

your remorse. Considering the circumstances, I would deduct 01 year in view of you guilty plea.

13. Accordingly, I sentence you to an imprisonment term of 08 years. I order that you are not eligible to be released on parole until you serve 06 years of your sentence pursuant to the provisions of section 18 of the Sentencing and Penalties Act.

14. It is submitted that you have been in custody in view of this matter from 20/05/19. Accordingly, you have spent a period of 01 year; 04 months and 15 days in custody. The period you were in custody in relation to this case shall be regarded as a period of imprisonment already served by you in view of the provisions of section 24 of the Sentencing and Penalties Act.


15. In the result, you are sentenced to an imprisonment term of 08 years with a non-parole period of 06 years. Considering the time spent in custody, the time remaining to be served is as follows;

Head Sentence - 06 years; 07 months; and 15 days

Non-parole period - 04 years; 07 months; and 15 days

16. 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 the Accused.**