

IN THE HIGH COURT OF FIJI
AT LABASA
[CRIMINAL JURISDICTION]

Criminal Case No.: HAC 34 of 2021

BETWEEN : STATE

AND : 1. TIMOUTA BOGITINI
2. HARRY BILLY WILLIAM SIMPSON
3. SAIRUSI BATIWACI

Counsel : Ms J. Fatiaki for the State
Ms R. Raj for the First Accused
Mr P. Gade for the Second Accused
Ms S. Devi for the Third Accused

Dates of Hearing : 17 November 2021

Date of Sentence : 19 November 2021

SENTENCE

1. On 6 May 2021, the three Accused in the company of each other broke into the dwelling home of the victim and stole a range of assorted liquor and candy to a total value of \$4750.00. They were charged with aggravated burglary and theft. Following their arrest, all three Accused confessed to the burglary and theft, and with their cooperation the police recovered a substantial stolen property from them.
2. All three Accused have pleaded guilty at the first opportunity. They are young and first time offenders. Bogitini and Batiwaci are 18 years old while Simpson is 21 years old. All three are unemployed. They sustain themselves by farming.

3. The mitigating factors are their early guilty pleas, cooperation with police in the recovery of stolen items, young age and their previous good character. Also, court's time and resources have been saved by their guilty pleas.
4. The statutory aggravation is that the burglary was committed in the company of others. The maximum penalty for aggravated burglary is 17 years imprisonment. The tariff is 18 months to 3 years imprisonment (*Leqavuni v State* [2016] FJCA 31; AAU0106.2014 (26 February 2016)).
5. The aggravating factors are that a home was burgled and the offence is prevalent in our community. The main purpose of sentence is deterrence, both special and general.
6. The offences are part of one transaction. An aggregate sentence is appropriate. I pick 2 years as a starting point. I adjust the sentence for the mitigating and aggravating factors and arrive at a term of 18 months imprisonment.
7. All three Accused are convicted and sentenced to 18 months imprisonment. I have considered suspension and decided to suspend the sentence. All three Accused have spent 6 months in custody on remand. They are young and have accepted responsibility for their criminal conduct by pleading guilty. Their remorse is genuine. These are special circumstances to suspend the term of imprisonment for 2 years.



Hon. Mr Justice Daniel Goundar

Solicitors:

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