

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

**Crim. Case No: HAC 342 of 2022**

**BETWEEN:** STATE

**PROSECUTION**

**A N D:** SAMUELA BALE RABUATOKA

**ACCUSED PERSON**

**Counsel** : Mr. S. Seruvatu for the State  
Mr. G. O'Driscoll for Accused

**Date of Sentence** : 27<sup>th</sup> September 2024

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**SENTENCE**

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1. The Director of Public Prosecution, on the 21<sup>st</sup> of February 2023, filed this Information, charging you with one count of Manslaughter, contrary to Section 239 (a) (b) & (c) (ii) of the Crimes Act. The particulars of the offence are:

***COUNT 1***

*Statement of Offence*

**MANSLAUGHTER:** *Contrary to Section 239 (a) (b) & (c) (ii) of the Crimes Act 2009.*

*Particulars of Offence*

***SAMUELA BALE RABUATOKA** on 17<sup>th</sup> day of September, 2022 at Suva in the Central Division, assaulted **MATEO VAKATUTURAGANA** which caused the death of the said **MATEO VAKATUTURAGANA** and at the time of the assault was reckless as to the risk that his conduct would cause serious harm to **MATEO VAKATUTURAGANA**.*

2. You initially pleaded not guilty to this offence. Hence, the matter was set down for the hearing. However, you then changed your position, pleaded guilty to this offence on the 6th of September, 2024, and admitted the summary of facts read to you in open Court. Satisfied that you fully comprehended the legal effect of your plea and that your plea was voluntary and free from influence, I now convict you of this offence as charged in the Information.
3. It was revealed by the summary of facts that you and the Deceased were drinking with some other friends on the 17th of September, 2022. Once the drinks finished, you all went to RB Patel Harbour Point to buy more liquor. While one of your friends went to buy hotdogs, two unknown youths came and tried to start the car that you came in. You wanted to chase them away. While you were trying to confront them, the Deceased, who was your nephew, came behind; you instinctively punched him in his chin. The Deceased fell, hitting the back of his head on the concrete floor. Though he regained his consciousness, the Deceased subsequently succumbed to the internal head injuries he sustained due to the said fall.
4. The maximum sentence for Manslaughter is twenty-five years imprisonment. The tariff for Manslaughter ranges from a suspended sentence, where there has been a great deal of provocation, to 12 years imprisonment, where there has been minimal provocation.
5. The Deceased's death has undoubtedly caused a devastating impact on his family. Therefore, the level of harm is substantially high. The summary of facts does not reveal that you and the Deceased had any issues or animosity. It was stated in your caution

interview that it was an unfortunate coincidence that the Deceased happened to be behind you when you were trying to confront the two youths who came to start the car.

6. You pleaded guilty before the hearing, showing remorse and repentance for committing this crime. You co-operated with the Police during the investigation and admitted your act during the caution interview. You had extended your traditional apology to the Deceased's family. There is no record of any previous conviction. You are 59 years old and living in Australia, working as a carpenter while looking after your family. You are entitled to a substantive discount for your previous good character and early plea of guilty, showing your remorse.
7. Considering the foregoing reasons, I sentence you to three (3 years) imprisonment.
8. The Fiji Court of Appeal in Vakaruru v State [2018] FJCA 124; AAU94.2014 (the 17th of August 2018) discussed the appropriate circumstances of imposing a suspended sentence for the offence of Manslaughter, where Sharma JA observed that:


*"The current sentencing trend for the offence of manslaughter under the Crimes Act appears to be between 5 years to 12 years imprisonment. The above sentencing range does take into account the objectives of section 4 of the Sentencing and Penalties Act. Section 26 (2) (a) of the Sentencing and Penalties Act gives the High Court the powers to suspend a final sentence if it does not exceed three (3) years imprisonment. Accordingly, there is no need to establish a new tariff for the offence of manslaughter. A sentencing court can impose a suspended sentence based on the circumstances of the offending, a tariff may be construed as a restriction or may even confuse a sentencer. In exceptional cases a sentencing court should consider suspending a sentence. (emphasis added)*

9. Considering the level of seriousness of this crime, the offending circumstances, the purpose of this sentence, opportunities for rehabilitation, and the minimum violence involved, I

partially suspend your sentence. Accordingly, you shall serve 18 months of your sentence forthwith, and the remaining 18 months are suspended for three years. Considering the nearly six months you have spent in remand custody before this sentence, the actual period you have to serve is **twelve (12) months** imprisonment.

10. It is important to note that if you engage in any criminal activity within the next three (3) years and are subsequently found guilty by the Court, you will be subjected to charges and prosecution under Section 28 of the Sentencing and Penalties Act.
11. Thirty (30) days to appeal to the Fiji Court of Appeal.



  
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Hon. Mr. Justice R. D. R. T. Rajasinghe

At Suva

27<sup>th</sup> September 2024

Solicitors

Office of the Director of Public Prosecutions for the State.

O'Driscoll & Co. for the Accused.