

**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**[CRIMINAL JURISDICTION]**

**CRIMINAL CASE NO. HAC 152 OF 2021**

**BETWEEN** : **STATE**

**AND** : **LASARUSA TAMANI KOLINISAU**

**Counsel** : Ms N Ali for the State  
Mr S Ravu and Mr E Ravuniwa for the Accused

**Date of Hearing** : **23 – 25 October 2023**

**Date of Judgment** : **12 December 2024**

**Date of Sentence** : **20 December 2024**

**SENTENCE**

- [1] Lasarusa Kolinisau, you stand convicted of one count each of aggravated burglary and theft. The offences were committed during Covid when there was a nationwide curfew in place.
- [2] The facts are that on Sunday, 18<sup>th</sup> of April 2021, at around 3am, you and three others planned to burgle and steal from the office of Land Transport Authority at the Garden City Premises, Raiwai.
- [3] On the previous day, Saturday, you played rugby for a local club and you stayed back at the club premises after the game. You had dinner and drinks at the club house and later you decided to join a group of boys to steal from the LTA office

situated across the road to the club. You and one of your accomplices acted as a lookout holding stones in the event someone disturbed the plan, while two of your accomplices entered the office by breaking the front entrance door.

- [4] After gaining entry, the intruders broke into the room where a Safe Box with cash and cheques were kept. The intruders removed and brought the Safe Box outside from where you helped them to carry it to the back of the club house near the men's toilet. All of you then broke the Safe Door and took the cash and cheques out. You received about \$800.00 in cash and some bags of money as part of your share. After the money was taken out, the Safe Box was discarded inside a culvert nearby.
- [5] You returned home and later spent the money on food and clothing. When you were arrested, you made a full confession to police under caution.
- [6] The Safe Box was recovered and restored to the Land Transport Authority. The charge alleged that \$8553.80 in cash was stolen but this amount was not proven. The amount that was proven was \$800.00 and some bags of coins in your confession to the police.
- [7] The offences of burglary and theft are too prevalent in our community and punishment for this type of offending must send a strong message of the community's disapproval of the conduct.
- [8] When burglary is committed in a company of others, the offence is aggravated. The maximum penalty prescribed for aggravated burglary is 17 years imprisonment. Theft carries maximum penalty of 10 years imprisonment.

- [9] I have to first assess the level of harm that was done by your offending in accordance with the guidelines enunciated by the Court of Appeal in Kumar v State [2022] FJCA 164; AAU117.2019 (24 November 2022).
- [10] In your case, there is no evidence to suggest soiling, ransacking or vandalism of the LTA office. The Office was vacant at the time and the offending did not cause any psychological harm to anyone. The Safe Box that was removed from the Office was broken to access the cash but the Box had been recovered and returned to LTA. The actual amount of cash that was stolen has not been established. But whatever cash was taken which is not significant had not been recovered. I pitch the level of harm at a low level.
- [11] Further, the offending does not involve any significant amount of planning. Nor did the offender play any principal role. Your role was to act as a lookout. The aggravating factors are that the offence was committed at night during Covid lockdown, during curfew hours, the offender was intoxicated and that a public office was targeted because the office was still operational during Covid and the intruders knew that they would find cash there.
- [12] Your personal circumstances, however, mitigates your offending. At the time of the offending you were 19 years old. You completed your high school and you were playing professional rugby for a local club at the time. You are now 22 years old and are in a de facto relationship. You have a two year old child from that relationship. You work as a casual labourer in the construction industry. The mitigating factors are that you are a young and a first time offender. Your record was unblemished until this case but there is hardly any expression of remorse on your behalf.

- [13] I pick an aggregate term of 3 years imprisonment as a starting point, add 2 years for the aggravating factors and deduct 2 ½ years for the mitigating factors. I further discount your sentence by 12 months to reflect the post charge delay of 3 years and your 38 days remand period.
- [14] I sentence you to an aggregate term of 18 months imprisonment for aggravated burglary and theft. I have considered suspension and have decided against it. A custodial sentence is warranted to make you accountable for your criminal conduct and to keep the community safe.



  
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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