

IN THE HIGH COURT OF FIJI

AT LABASA

CRIMINAL JURISDICTION

Criminal Case No.: HAC 64 of 2024

STATE

V

MITIELI CAMA

FINAU BULIVOLIVOLI

Counsel : Mr. E. Thaggard for the State
: Ms. R. Raj for the 1st Accused
: Mr. I. Rusaqoli for the 2nd Accused

Date of Trial : 4 – 10 February 2025
Date of Judgment : 28 February 2025
Date of Sentencing Hearing: 20 March 2025
Date of Sentence : 4 April 2025

SENTENCE

1. Mr. Cama and Mr. Bulivolivoli, on 28 February 2025, after trial before this Court, you were convicted of a count of aggravated robbery, contrary to section 311(1) (a) of the Crimes Act 2009. Mr. Cama, you were also convicted of serious assault, contrary to section 277(b) of the Crimes Act 2009.
2. The factual basis upon which I sentence you today is set out in my Judgment dated 28 February 2025. For present purposes, it is sufficient to set out those facts in brief summary.

3. On 28 May 2024, Mr. Ramjam Khan was making his way home by bus, having collected his fourth cane payment in the amount of \$11,773.00 from the Bank of Baroda, Labasa Branch. At around 2.00pm, the bus stopped in Qelewaqa for a passenger to alight, at which point Mr. Cama came from behind, assaulted him, grabbed his bag containing his cane payment, and ran off the bus. Mr Khan chased after him, but was pushed over by Mr. Cama. As Mr. Khan continued to chase after Mr. Cama, Mr Bulivolivoli told him not to run as he would bring back Mr Khan's bag. When Mr Khan continued to chase, Mr Bulivolivoli pushed him over, causing injuries to his elbows and knees.
4. In the early hours of 29 May 2024, whilst proceeding to Savusavu along Belego junction, Sgt Manoa saw a private car heading in the direction of Labasa. By the light of their vehicle, he clearly saw Mr. Cama on the passenger side of the oncoming vehicle. The vehicle was stopped and Sgt Manoa ran to the back of the car. At the same time, Mr. Cama alighted, and they collided. There was a "commotion", and they both fell to the ground. Mr. Cama was drunk, and trying to free himself. With the assistance of DC Militoni, Sgt Manoa was able to arrest Mr. Cama.
5. Mr. Cama, I must now proceed to impose a just and proportionate sentence for the totality of your offending. Mr Bulivolivoli absconded and will be sentenced in his absence.

Prosecution sentencing submissions

6. The prosecution has filed helpful written submissions, and Ms. Thaggard also addressed the Court at your sentencing hearing. The prosecution has drawn my attention to the relevant guideline judgment. In *State v Tawake* [2020] FJSC 22; CAV0025.2019, the Supreme Court identified the starting points and sentencing ranges for three categories of robbery. Ms. Thaggard submits that the offending in this case caused "medium" harm. The appropriate starting point is 5 years, and the range is 3 years' to 7 years' imprisonment.

7. The prosecution have also urged upon me a number of factors which they say makes Mr. Cama's offending more serious. As an elderly man of 61 years, Mr Khan is said to be particularly vulnerable. A large sum of money was stolen. It is said that there was some degree of planning, and that Mr. Cama played a leading role. Mr. Cama has seven previous convictions, albeit the property related offences date from 2015. His most recent conviction was on 8 April 2024, when he was sentenced to 4 months' imprisonment, suspended for 12 months, upon his plea of guilty to a charge of absconding bail contrary to section 26(1) of the Bail Act 2002.
8. On behalf of Mr. Cama, Ms. Raj has filed thorough written submissions, and addressed me at the sentencing hearing. I have considered everything she advances on your behalf.
9. You are now 28 years old and in a de facto relationship with an infant son. You have been the sole breadwinner for your family, working as a contractor earning \$250.00 per week.
10. Ms. Raj submits that your offending was opportunistic, with little or no planning. She also tells me that you now realise that your actions were wrong, and that you apologise and seek forgiveness.
11. Nevertheless, you maintain that you were defending yourself at the time of your arrest.
12. Ms. Raj is in agreement with the prosecution that the harm in this case is to be classified as 'medium'. The starting point is 5 years' imprisonment with a range of 3 to 7 years' imprisonment.
13. On behalf of Mr. Bulivolivoli, Mr. Rusaqli also agrees that this is a 'medium' harm case. He submits that, at the age of 30 years, his client has no recent convictions. Mr. Rusaqli also reminds me that there was partial recovery of about \$1000.00 from his client.

Discussion

14. The maximum sentence for aggravated robbery is 20 years' imprisonment, and the maximum sentence for serious assault is 5 years' imprisonment.
15. In my judgement, the harm caused to Mr. Khan falls within the medium category in *Tawake*. It is apparent from his victim impact statement that the robbery has caused him significant psychological and financial harm.
16. I consider both offenders to be equally culpable, and take as the appropriate starting point for both Mr. Cama and Mr. Bulivolivoli a sentence of 5 years' imprisonment.
17. Whilst I do not accept that the offending was entirely opportunistic, I cannot be sure that there was significant planning such as to warrant a substantial uplift from the starting point.
18. I do not consider that the offenders' previous convictions substantially aggravate their offending in this case. Nor do I consider that they have advanced any effective mitigation.
19. Balancing these factors, I have concluded that a just and proportionate sentence on count 1 is 5 years' imprisonment.
20. Having regard to totality, I sentence Mr. Cama to 6 months' imprisonment consecutive on count 2. Police officers put themselves in daily danger in service of the public, and they are entitled to the full protection of the law. A clear message must be sent that those who would seek to resist lawful arrest can expect condign punishment.
21. Mr. Cama has been in custody since his arrest on 29 May 2024. I regard 1 year as a period of imprisonment already served.
22. In the result, Mr. Cama is sentenced to 4 years' imprisonment on count 1 and 6 months' imprisonment consecutive on count 2.

23. I consider the appropriate period that Mr. Cama shall not be eligible to be released on parole to be 3 years.
24. Mr Bulivolivoli was in custody from the date of his arrest on 30 May 2024 until I granted him bail on 3 October 2024. That is a period of 4 months and 3 days. I have considered whether I should order that this period is not to be regarded as time already served in light of the fact that he absconded bail. On reflection, however, the more appropriate course is for me to order that a period of 4 months is to be regarded as time served, and for the court dealing with him for absconding bail to impose an appropriate sentence for that offence.
25. I note that, for an offence of damaging property, Mr. Cama was sentenced to 6 months' imprisonment suspended for 2 years on 5 June 2023. He also accepts that for an offence of absconding bail he was sentenced to 4 months' imprisonment suspended for 12 months on 8 April 2024. The index offences were therefore committed during the operational period of those suspended sentences. Indeed, he committed the serious offences for which I sentence him today within two months of his sentence for absconding bail. It is clear to me that Mr. Cama has no respect for the law, and that his apology and expression of remorse are nothing but empty words. He regrets only that he has been brought to justice.
26. Having said that, I have no discretion to activate his suspended sentences, and it is a matter for the appropriate authorities to decide whether to proceed under section 28 of the Sentencing and Penalties Act 2009.
27. Mr. Cama, for the reasons I have explained, the sentence I impose is:
- (i) Count 1 – 4 years' imprisonment
 - (ii) Count 2 – 6 months' imprisonment consecutive
 - (iii) Non-parole period – 3 years.

28. Mr. Bulivolivoli, for the reasons I have explained, the sentence I impose is 4 years 8 months' imprisonment, to commence from the date you are apprehended. Your non-parole period is 3 years from that date.
29. You may appeal to the Court of Appeal within 30 days.



Hon. Mr. Justice Burney

At Labasa

4 April 2025

Solicitors

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