

**IN THE RESIDENT MAGISTRATE'S COURT OF FIJI**  
**AT NAVUA**

Criminal Case No: - 45 /2012

**STATE**

**V**

**WILLIE MORELL**

For Prosecution : - Sgt. Lenaitasi

Accused : - In person

**SENTENCE**

1. **WILLIE MORELL**, you were charged for the offence of Burglary, contrary to sec 312 of the Crimes Decree No 44 of 2009 as first count and for the offence of Theft contrary to sec 291 of the Crimes Decree No 44 of 2009 as second count.
2. You pleaded guilty for both counts on 10 April 2013 after waiving right to counsel. You also admitted the summary of facts.
3. According to the summary of facts both these offences were committed between 16 Oct 2011 and 24 Oct 2011 at Pacific Point Road, Navua. On that day you entered in to the complainant's house and stole properties to the value of \$9700.00. The police arrested you and recovered all the stolen properties.
4. This court is satisfied that your plea was made voluntarily and convicts you for both counts.

## **LAW AND TARIFF**

5. The maximum penalty for Burglary is 13 years imprisonment.
6. The tariff for this offence is between 18 months to 3 years **Tomasi Turuturuvesi v The State [2002] HAA 086 of 2002;**
7. The maximum penalty for Theft is 10 years imprisonment.
8. In **Jone Saukilagini [2005]FJHC 13** Her Ladyship Justice Shameem held that **“the tariff for simple larceny on a first conviction is from two to nine months. In cases of larceny of large amount of money sentence of 18 months to three years have been upheld by the High Court”**
9. After considering the summary of facts in this case I select 18 months imprisonment as starting point for both counts.

## **AGGRAVATING FACTORS**

10. Aggravating factor for the second count would be value of the stolen properties and I add 06 months to reach 24 months. For the first count there is no aggravating factor and stand at 18 months.

## **MITIGATING FACTORS**

11. Mitigating factors are you are married with 05 children, the properties were recovered, you seek forgiveness and not to reoffend in the future.
12. You also pleaded guilty without going for a trial. You saved public money as well as court resources by pleading guilty. This will be considered as a mitigating factor too.
13. For all these mitigating factors I will deduct 10 months from both counts to reach 08 months for the first count and 14 months for the second count.
14. Since you are not a first offender you are not entitled for any discount for your past behavior.

15. This court has the power to suspend a sentence which is below 02 years. Your last conviction was in 2004. Also you saved the court's time by your early plea as well as all the properties were recovered. Therefore I believe you need to be given a chance to reform.
16. Accordingly I sentence you to 08 months imprisonment for the first count and 14 months imprisonment for the second count and these will be suspended for 02 years.
17. If you commit any crime during next 02 years you can be charged under section 28 of the Sentencing and Penalties Decree.
18. 28 days to appeal

11 April 2013

**H.S.P.Somarathne**

**Resident Magistrate, Navua**