

IN THE MAGISTRATE'S COURT AT LABASA
CRIMINAL JURISDICTION

Criminal Case No.476 of 2013

STATE

v

PAULIASI NADALI

For the Prosecution: **PC Akash**

For the Accused : **In Person**

Sentence : **31 January 2018**

SENTENCE

1. The accused, *Pauliasi Nadali*, you are before this Court today to be sentenced for the offences of *Burglary* and *Theft* under section 312(1) and 219 of the *Crimes Decree 2009*, respectively.
2. On 3 November 2017, the case was listed for mention to fix a hearing date for voir dire. On that date you informed the court that you wish to plead guilty to the charges. The charges were re-put to you where you pleaded guilty to both the offences on your own free will and without any force or inducement. I find your plea to be unequivocal.

3. The brief summary of facts are;-

"On 23rd day of August 2012, the accused, Pauliasi Nadali broke and entered into the house of Vulase Johanson at Vatia subdivision, Labasa, and stole a black and red Canterbury bag valued \$60.00, one tabua valued \$150.00, two masi (tapa) valued \$350.00, a blue jacket valued \$100.00, all to the total value of \$660.00, the property of Vulase Johanson.
4. You admitted to the summary of facts on 3 November 2017, and convicted as charged.
5. The maximum penalty for *Burglary* is 13 years imprisonment. The tariff is from 12 months to 3 years imprisonment as set in ***Mosese Uluicicia v State***, *Criminal Appeal No. HAA 028 of 2014*. The maximum penalty for *Theft* is 10 years imprisonment. The tariff is for 2 to 9 months for simple theft and 9 months and more for repeated offenders as set in ***Vakarauvanua v The State [2004] FJHC 116***.
6. The aggravating factors are;-
 - i. *offended when the house is empty.*
 - ii. *create insecurity to the privacy of house owners.*
7. The only compelling mitigating factor that you offered is that you seek the court forgiveness.
8. For your sentence, I will start with *Burglary* and I pick 2 years as my starting point. I add 1 year for the aggravating factors and that increase your sentence to 3 years. I reduce 6 months for your mitigation and that reduce your sentence to 2 years and 6 months imprisonment.
9. You did not enter an early guilty plea and you are not entitle for the one third reduction. However, I will give you 5 months discount for your guilty plea. That reduce your sentence to 2 years and 1 month imprisonment.

10. I have noted from the record that you were in remand for about 2 weeks, there after you are serving for other case. I will give discount for the 2 weeks you were in remand. That reduce your sentence to 2 years and 2 weeks imprisonment.
11. In compliance with the "one transaction rule" as imposed by the Supreme Court in **Wong Kam Hong v The State** (unreported) Criminal App No. CAV 0002 of 2013 (23 Oct 2003), I impose 7 months imprisonment as your sentence for the count of Theft.
12. You are concurrently a serving prisoner, in you mitigation you requested for this sentence to be concurrent with the sentence that you are currently serving.
13. *Pauliasi Nadali*, I now sentence you as follows; -
- a. Count 1 - *Burglary - 2 years and 2 weeks imprisonment.*
 - b. Count 2 - *Theft - 7 months imprisonment.*
 - c. *Sentence for both the counts to be served concurrently with non parole period of 16 months.*
 - d. *This sentence to be served concurrent to the sentence that you are currently serving in other case.*

28 days to appeal.



C. M. Tuberi
RESIDENT MAGISTRATE