

IN THE MAGISTRATES' COURT OF FIJI
AT TAVUA
CRIMINAL JURISDICTION

Criminal Case No: 132 - 2017

STATE

-v-

SIMELI LEWADROMODROMO

Before : RM Fotofili L.
For Prosecution : SGT Kumar N. and WPC Chand A. [Police Prosecution]
Accused : Mr Samy A. [Legal Aid Commission]
Date of Sentence : 26th July 2019

SENTENCE

1. **SIMELI LEWADROMODROMO**, you have pleaded guilty to the following charge:

Statement of Offence

THEFT: Contrary to section 291 (1) of the *Crimes Act of 2009*.

Particulars of Offence

SIMELI LEWADROMODROMO on the 13th day of May, 2017 at Tavua town in the Western Division, dishonestly appropriated a Pioneer brand vehicle stereo valued at \$199.00 the property of **Navneet Chand**.

2. I am satisfied that your guilty plea is voluntary, it is supported by the evidence tendered in support of your guilty plea and your admission in court. I am also satisfied that you understand the consequence of your plea.
3. I convict you of the charge accordingly.
4. The victim works at a service station in town. The victim parked his car at his workplace and went to work. He returned later to find his vehicle radio missing. The matter was reported and you were arrested by police as a result.

5. When interviewed by police later, you admitted drinking liquor with some others. You saw the victim's car parked with its doors open. You pulled out the car stereo and took it with you. You unsuccessfully tried to sell it to a carrier driver who refused it. You later sold the radio for \$30 to a man who you met in town. You stole the radio as you did not have any money.
6. There has been no recovery of the item.
7. You were remanded between the 26th of May 2017 until you were bailed on the 24th of July 2017 which is about 2 months.
8. You disappeared but was later produced for another charge EJR 01 – 19. You were then remanded and you have been in remand ever since.
9. You were supposed to be sentenced on the 22nd of July 2019 but due to an oversight which is not your fault, your sentence had to be deferred and you were further remanded again.
10. You were not brought to court on 26-07-19. Another 4 days lapsed.
11. I will only consider the 2 months you have spent in remand together with the 9 days delay for not giving your sentence, as time already served.
12. The remaining term you spent in remand I will not consider as time served. You deserved to be remanded in custody as you failed to reappear and you were now charged for other fresh charges.
13. You are a first offender.
14. You are 23 years old. Single. No children. You are looking after your parents. Your sought further time to pay costs or compensation to the victim.

MAXIMUM SENTENCE

15. The maximum punishment for theft is up to 10 years imprisonment.

SENTENCING RANGE or SENTENCING TARIFF

16. The sentencing tariff for theft is as follows [Ratusili v State [2012] FJHC 1249; HAA011.2012 (1 August 2012)] :

- (i) for a first offence of simple theft, the sentencing range should be between 2 and 9 months.
- (ii) any subsequent offence should attract a penalty of at least 9 months.
- (iii) Theft of large sums of money and thefts in breach of trust, whether first offence or not can attract sentences of up to three years.
- (iv) regard should be had to the nature of the relationship between offender and victim.
- (v) planned thefts will attract greater sentences than opportunistic thefts.

17. I would classify your case as that of simple theft.

STARTING POINT

18. Based on the objective seriousness of the case, I select a starting point of 4 months imprisonment.

AGGRAVATING FEATURES

- 19. This was brazen as it was committed in public.
- 20. You sold the item.
- 21. I am sure that you were drunk at the time.
- 22. I increase your sentence to 10 months imprisonment.

MITIGATION

23. I do not accept that you are remorseful. For example, you have not been stopped in the past 2 years since your case is pending in court, to compensate the victim. A clear sign of remorse is if you take actions to try and make things right. Not just hollow words.

24. You are a first offender.
25. You are young.
26. You have cooperated with police.
27. Your family circumstance is not that compelling.
28. Your sentence is reduced to 6 months imprisonment.

GUILTY EARLY

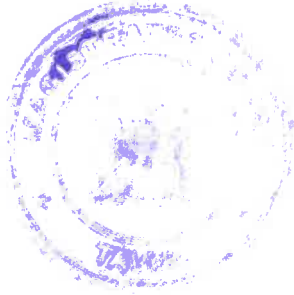
29. I accept that your guilty plea was given at the earliest opportunity and I will reduce your sentence to 4 months imprisonment.

SUSPENDED SENTENCE & OBJECTIVE OF SENTENCING

30. I can suspend your sentence whether in whole or in part pursuant to section 26 (1) and (2) (b) of the **Sentencing and Penalties Act 2009** as long as your sentence is below 2 years imprisonment.
31. Your sentence is aimed at deterrence and to punish you adequately.

FINAL SENTENCE

32. Your sentence is 4 months imprisonment.
33. As I have explained earlier, I will only consider 2 months and 9 days of your time spent in remand as time served and I will deduct this from your sentence.
34. You therefore have a balance of 1 month and 19 days imprisonment remaining.
35. I will wholly suspend this remaining term. It will be suspended for the next 2 years.
36. Do not commit any other offence punishable with imprisonment in the next 2 years. If you do, this 1 month and 19 days remaining may be activated.
37. 28 days to appeal.



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Lisiate T.V. Fotofili
Resident Magistrate

Dated at TAVUA this 30th day of July, 2019.