

**IN THE MAGISTRATE'S COURT AT LABASA**  
**CRIMINAL JURISDICTION**

*Criminal Case No. 80 of 2019*

**STATE**

v

1. **MOHHAMED MUZIM**
2. **TUITOGA MAIWAI**

Appearance : **PC Lal** for the prosecution  
**Mrs Boseiwaqa. K** for the accused

Sentence : **2 August 2019**

**SENTENCE**

1. *Mohhamed Muzim and Tuitoga Maiwai today is for sentencing for one count of Theft, contrary to section 291 of the Crimes Decree.*
2. *Mohammed Muzim pleaded guilty to the charge on 22 March 2019, in the presence of your counsel. Tuitoga Maiwai you pleaded guilty to the charge on 29 July 2019, in the presence of your counsel. I find both your plea to be unequivocal as it was given on your own free will.*

3. The facts of the case are that between 5 and 6 February 2019, you stole the victim's brown with black spotted coloured bullock from where it was tied at Korovuli, Seaqqa. You took the bull without the consent of the victim. In doing so you permanently deprived the victim of his bull. You slaughtered the bull and sold the meat. The value of the bull is \$750.00.
4. You both admitted to the above summary of facts on 29 July 2019, and both convicted as charged.
5. The maximum sentence for the offence of *theft* is 10 years imprisonment. In the case of **Ratusili v State** [2012] FJHC 1249; HAA011.2012 (1 August 2012), the High Court set the tariff as follows;-
  - a) *First offence of simple theft, sentence range between 2 and 9 months;*
  - b) *Any subsequent offence, attracts penalty at least 9 months;*
  - c) *Theft of large sum of money and theft in breach of trust, whether first offence or not attract sentences of up to 3 years;*
  - d) *Planned thefts attract greater sentence than opportunistic thefts.*
6. The aggravating factors are;-
  - a. *You deny the victim to enjoy the fruit of his hard work,*
  - b. *There was no recovery,*
  - c. *You create insecurity to the farming communities.*
7. The compelling mitigating factors are;-
  - a. *Sole bread winner,*
  - b. *Remorseful and seeking court forgiveness,*
  - c. *Cooperation with the police,*
  - d. *Promise not to re-offend.*

8. This is a well planned theft and it attract greater sentence. For your sentence, I pick 12 months as my starting point. I add 1 year for the aggravating factors. That increases your sentence to 2 years imprisonment. I reduce 8 months for your mitigation. That reduce your sentence to 1 year and 4 months imprisonment. I reduce 5 months for your early guilty plea. That reduce your sentence to 11 months imprisonment.
9. I noted from the record that you were in remand for about 1 month. I reduce that from your sentence. Your final sentence is 10 months imprisonment.
10. In ***State v Filipe Ratusuka & others***, High Court, Criminal Appeal No. HAA 001 of 2013 (7 March 2013) Goundar. J, stated that animal theft is considered as a serious offence and immediate custodial sentence should be imposed. In light of this decision I find that this is not an appropriate case for suspended sentence.
11. Mohhamed Muzim and Tuitoga Maiwai, I now sentence both of you to 10 months imprisonment

**28 days to appeal.**



C. M. Tuberi

**RESIDENT MAGISTRATE**

