

IN THE JUVENILE'S COURT OF FIJI
AT TAVUA
CRIMINAL JURISDICTION

Criminal Case No: 02 - 2018

STATE

-v-

FUJIURI KARL WAQAVATU

Before : RM Fotofili L.
For Prosecution : WPC Chand A. [Police Prosecution]
Accused : Mr Samy A. [Legal Aid Commission]
Date of Sentence : 20th August 2019

PUNISHMENT

1. **FUJIURI KARL WAQAVATU**, you have 3 files involving theft before me pending sentence. You have pleaded guilty in all 3 files.
2. The victim in all three files is your father and you committed the offences in October and November 2018.
3. You were 15 years old at the material time in all 3 files. Your date of birth is the 23rd of March 2003.
4. The offences were committed in the course of the same transaction or founded on the same facts.
5. Pursuant to section 17 of the **Sentencing and Penalties Act 2009**, I will impose an aggregate sentence on you for all the 3 files.
6. You managed to secure legal representation in all 3 files and you pleaded guilty to the charges and admitted the facts in the presence of your lawyer and your parents on the 13th of May 2019.
7. Having heard your guilty plea and your admission and that you understand the consequence of your admission and after satisfying myself with the evidence tendered in support of your admission, I have entered a finding of guilt against you in all 3 files.

Case Number Tavua Juvenile 02 - 18

8. In this file, you admitted committing the following offence:

Statement of Offence

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

Particulars of Offence

FUJIURI KARL WAQAVATU on the 22nd day of October, 2018 at Tavua Town in the Western Division dishonestly appropriated a 13.6 kg cylinder KALTON 134 (a) Refrigeration Gas valued at \$400.00 the property of Kalaveti Waqavatu, with the intention of permanently depriving the said Kalaveti Waqavatu.

9. Your father runs a refrigeration service business. He was sick and he gave you the key to the business to open it and your father said that he will come later. After you opened the shop, you then took the gas cylinder valued at \$400 and sold it to a businessman at Ba for \$80. The matter was reported to police.
10. You were arrested and interviewed by the police in the presence of your mother. You admitted opening the shop at the request of your father. You then took the cylinder and sold it at Ba for \$80. You used some money for the rental vehicle that was used to transport you and the rest of the money you bought food. You identified a cylinder that was shown to you by police as the same one you had sold. You admit that you did not ask your father to take the cylinder.
11. The property has been recovered and returned to your father.

Case Number Tavua Juvenile 03 - 18

12. In this file, you admitted committing the following offence:

Statement of Offence

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

21. You are now 16 years old. However at the material time in all 3 files, you were 15 years old. You are schooling. You promise not to re-offend. You have spent 3 weeks at the juvenile detention centre (see records in files 03 – 18 and 04 – 18). A non-conviction is sought for.
22. A social welfare report has been prepared dated the 19th of February 2019. You are attending school and you appear to be happy attending school. Your parents are of the view that your actions are the result of influence of your peer group. Most of the time in 2018, you were not listening to your parents. The welfare officer recommends close supervision and is satisfied that you have a lot of promise.

MAXIMUM PUNISHMENT and SENTENCE

23. The maximum sentence that is imposable by law for the offence of theft is up to 10 years imprisonment.
24. 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.
25. No young person between the age of 14 and below 18 years old cannot be imprisoned for more than 2 years for any offence [section 30 (3) of the Juveniles Act Cap 1973.

26. Amongst other sentencing options, the Juveniles Act 1973 at section 32 and the Sentencing and Penalties Act 2009 particularly section 15 is helpful in deciding what punishment you deserve.
27. Amongst other things, your sentence will take into account the seriousness of the offence, some of the available sentencing options, the circumstance of the offence, your age and your background.

DEFERMENT OF PUNISHMENT

28. I am satisfied that your punishment will be deferred to a later stage and that in the mean-time you will be placed under the probation of the Social Welfare Department or Probation Officer pursuant to section 3 of the Probation of Offenders Act 1952 and section 32 (1) (f) of the Juveniles Act 1973.
29. Your probation will be for a period of 1 year 2 months commencing 2 weeks from today or commencing from 2nd September 2019 and it should end on the 2nd of December 2020.
30. Your bail conditions will remain in place except for your curfew condition which I vary to be between 9pm to 6am every day.
31. You are to report to your probation officer and comply with any lawful or reasonable directions given by your probation officer during the probation period.
32. The court registry is to advise the Social Welfare department accordingly and forward them this punishment and any other information that they need.
33. The probation officer should contact you for a follow up in due course.
34. The probation officer is to provide a report to the court every 6 months regarding your progress and a final report at the end of the probation period.
35. I will fix this case again in December 2020 to check on your progress and I will decide your punishment or aggregate sentence for all 3 files after reviewing the results.



[Handwritten signature]

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Lisiate T.V. Fotofili

Resident Magistrate

Dated at Tavua this 20th day of August, 2019.