

IN THE MAGISTRATES' COURT OF FIJI
AT TAVUA
CRIMINAL JURISDICTION

Criminal Case No: 82 - 2019

STATE

-v-

BOBBY HERMANT PRASAD

Before : RM Fotofili L.
For Prosecution : WPC Chand A. [Police Prosecution]
Accused : In Person, Waived Right To Counsel
Date of Sentence : 20th August 2019

SENTENCE

1. **BOBBY HERMANT PRASAD**, 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

BOBBY HERMANT PRASAD on the 22nd day of March, 2019 at Garampani, Tavua in the Western Division dishonestly appropriated (stole) 2 chickens valued at \$45.00, the property of **Anil Kumar** with the intention of permanently depriving the said **Anil Kumar** of his property.

2. I am satisfied that your guilty plea 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 consequences of your plea.
3. I convict you of the charge accordingly.
4. It was around 4am when the victim was awakened by his dogs which were barking. The victim's attention was drawn to his chicken shed where he saw you holding his 2 chickens in your hands. He yelled out at you but you left.

5. During the course of police investigation, you were arrested and interviewed by police. You denied knowing the victim and you did not make any admission to stealing his chickens.
6. There has been no recovery of the chickens.
7. I will not consider all except 1 day of the time you have spent in remand as time served. You have multiple convictions for larceny of birds as early as 1999. Your offences were committed at Sigatoka, Taveuni and Tavua. Your notable and latest conviction was for theft in 2015. You also have a Rakiraki case for a similar offence pending. Your history and your case pending of a similar nature, suggests that you cannot be relied upon to behave if granted bail and that you are a menace to the society despite the minimal value of the item you stole.
8. You were supposed to be produced in court yesterday the 19th of August 2019 to be sentenced but you were not brought or produced by the corrections department. No reason was given for this default. I will deduct this 1 day from your sentence.
9. You are not a first offender.
10. You are 44 years old. You have 3 children to support. You said that you stole because you wanted to pay off your debt. You promise not to reoffend. You say that you can stay somewhere in Suva at Nasinu 9 miles.

MAXIMUM SENTENCE

11. The maximum punishment for theft is 10 years imprisonment.

SENTENCING RANGE or SENTENCING TARIFF

12. 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.

STARTING POINT

13. Based on the objective circumstance of your case, I select a starting point of 3 months imprisonment.

AGGRAVATING FEATURES

14. You entered the victim's compound.
15. This was early in the morning.
16. Your sentence is increased to 8 months imprisonment.

MITIGATION

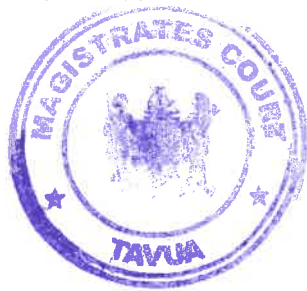
17. You will not get any reduction in sentence for having a good history or having good character. You also did not cooperate with police.
18. I am satisfied that you are remorseful.
19. You have a family to support.
20. Your sentence is reduced to 5 months imprisonment.

GUILTY EARLY

21. I accept that your guilty plea is early and I reduce your sentence to 3 months and 14 days imprisonment.

FINAL SENTENCE

22. As explained, I will only consider 1 day you have spent in remand as time served.
23. Your sentence will be aimed at deterrence and to punish you adequately.
24. Your sentence is 3 months and 14 days imprisonment.
25. It is reduced to 3 months and 13 days imprisonment for the 1 day spent in remand.
26. I am inclined to suspend your sentence in part.
27. 1 month and 13 days imprisonment is suspended for the next 2 years.
28. Do not commit any other offence punishable with imprisonment in the next 2 years or this 1 month and 13 days imprisonment may be activated.
29. You will serve 2 months imprisonment immediately.
30. I have considered imposing a good behaviour bond with a special condition that you are to reside at Nasinu for sometime but I have declined ordering that. Your previous conviction suggests that changing your locality does not deter or dissuade you from stealing. Imprisonment maybe the best solution in your case.
31. 28 days to appeal to the High Court if you are dissatisfied with your sentence.



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Lisiate T.V. Fotofili

Resident Magistrate

Dated at Tavua this 20th day of August 2019