

IN THE MAGISTRATE'S COURT AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. 457 of 2019

STATE

v

- 1. JOVILISI RAIKADROKA**
- 2. RODA LATENACONO**

Appearance : **PC Lal** for the prosecution
Accused both in person

Sentence : **13 September 2019**

SENTENCE

1. The accused, Jovilisi Raikadroka and Roda Latenacono, you are before this court to be sentenced for one count of *Theft* for contravening *section 291* of the *Crimes Act*.
2. On 22 August 2019, you waived your rights to counsel. On 30 August 2019, you pleaded guilty to the charge on your own free will. I find your plea to be unequivocal.
3. The brief summary of facts are;-
"Between 29 to 31 May 2019, the accused Jovilisi Raikadroka and Roda Latenacono of Nakavika, Seaqaqa, uprooted 5 plants of green yagona from the farm of Saimone Tuicila, 52 years old, at Senai, Seaqaqa. In doing so, the accused dishonestly appropriates, the yagona of Saimone with intention to permanently deprive Saimone of his yagona. The value of the stolen yagona is \$1,000.00.

4. On 30 August 2019, you admitted to the above facts and convicted as charged. You submitted your oral mitigation on the same day.
5. The maximum penalty for *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 that you deprive the victim from the fruit of his sweat and hard work.
7. The mitigating factors are;-
 - a. *Both young and first offenders,*
 - b. *Promise not to re-offend,*
 - c. *Ask for the court forgiveness.*
8. This is not a simple theft, but a case which requires some planning. For your sentence, I pick 16 months as my starting point. I add 6 months for the aggravating factors. That increases your sentence to 1 year and 10 months imprisonment. I reduce 6 months for your mitigation. That reduces your sentence to 1 year and 4 months imprisonment. I reduce 5 months as your one third entitlement for your early guilty plea. That reduce your sentence to 11 months imprisonment.

9. In **State v Filipe Ratusuka & others**, High Court, Criminal Appeal No. HAA 001 of 2013 (7 March 2013) Goundar. J, stated that animal and farm theft are considered as a serious offence and immediate custodial sentence should be imposed. In light of this decision, suspended sentence is not an option.
10. The final sentence is 11 months imprisonment. I reduce 3 weeks for the period you spent in remand. That reduce the sentence to 10 months and 1 week imprisonment.
11. Jovilisi Raikadroka and Roda Latenacono you are to serve your balance sentence of 10 months and 1 week imprisonment with immediate effects.

28 days to appeal.



A handwritten signature in blue ink, appearing to read "C. M. Tuberi". The signature is stylized and written over a horizontal line.

C. M. Tuberi
RESIDENT MAGISTRATE