

IN THE MAGISTRATES' COURT OF FIJI
AT TAVUA
CRIMINAL JURISDICTION

Criminal Case No: 104 - 2019

STATE

-v-

JOSEFA LASAGANIBAU

Before : RM Fotofili L.
For Prosecution : WPC Chand A. [Police Prosecution]
Accused : In Person, Waived Right To Counsel
Date of Sentence : 29th October 2019

SENTENCE

1. **JOSEFA LASAGANIBAU**, you have elected a Magistrates' Court trial and pleaded guilty to the following charge:

Count One

Statement of Offence

BURGLARY: Contrary to section 312 (1) of the *Crimes Act of 2009*.

Particulars of Offence

JOSEFA LASAGANIBAU, on the 9th day of April, 2019 at Tavua in the Western Division entered into the house of **RAVINESH DEO**, as trespasser with intent to steal from therein.

Count Two

Statement of Offence

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

Particulars of Offence

JOSEFA LASAGANIBAU, on the 9th day of April, 2019 at Tavua in the Western Division stole six tray eggs valued at \$70.00 the property of **RAVINESH DEO**, with intent to permanently deprive the said **RAVINESH DEO** of his property.

2. I am satisfied that your guilty plea to both counts is voluntary and that you understand the consequences of your plea. The evidence tendered in support of your admission also supports your plea.
3. I have found you guilty of both counts and I convict of you of both counts as reflected in the charge accordingly.
4. The victim is a poultry farmer. He left his house vacant. You were a former employee and had worked for him for 3 years. You came and entered the bulk room at night and you took six tray eggs. Each tray had 30 eggs. You hid the eggs near your village and in the morning you took the eggs and sold them at the Ba market. You sold each tray for \$12. You have used the money to buy food and other things.
5. The matter was reported and you were arrested by police. You were interviewed under caution. You admitted the same and you also showed the police the place you had stolen from during the scene reconstruction.
6. You have been in remand since the 12th of April 2019 which is the first time you were produced.
7. I was not presiding when you were first produced. It is likely that I would have remanded you in custody assuming I was sitting at the time you were first produced because you had another theft case pending, that is, Tavua CF 85 – 19 and you had indicated early that you committed the offences in this case for burglary and theft.
8. You would have been given some time to sort out your legal representation [which you later waived] and read your disclosures even if I had remanded you.
9. You were supposed to be sentenced on the 13th of September 2019 but due to reasons which is not your fault, your sentence was adjourned to today.
10. For the reasons above, I will consider only 4 months you have spent in remand as time served.
11. You have no prior conviction.
12. You are 22 years old. You seek forgiveness. You have a wife who has recently given birth.

AGGREGATE SENTENCE

13. The offences or both counts were committed in the course of the same transaction or founded on the same facts.
14. Pursuant to section 17 of the **Sentencing and Penalties Act 2009**, I will impose an aggregate sentence on you for both the counts.
15. Since burglary is the more serious of the two counts, I will use that as a guide when passing your aggregate sentence.

MAXIMUM SENTENCE

16. The maximum sentence a court can impose for burglary is up to 13 years imprisonment.

SENTENCING RANGE or SENTENCING TARIFF

17. The sentencing tariff for burglary is between 20 months to 6 years imprisonment
State v Prasad - Sentence [2017] FJHC 761; HAC 254.2016 (12 October 2017).

STARTING POINT

18. Based on the objective seriousness of the offence, I select an aggregate starting point of 2 years and 4 months imprisonment.

AGGRAVATING FEATURES

19. You were a former employee. I am sure you used your knowledge of the victim's place to assist you carry out the offence. This was a breach of trust.
20. You sold the eggs for approximately \$60.
21. You committed this at night.
22. Your aggregate sentence is increased to 4 years imprisonment.

MITIGATION

23. You will get some discount for having a past good history.
24. You cooperated with police during your interview.
25. You have a family to support.
26. You are remorseful.
27. Your sentence is reduced to 2 years and 7 months imprisonment.

GUILTY EARLY

28. Your sentence is further reduced for your early guilty plea.
29. Your sentence now sits at 20 months imprisonment.

FINAL SENTENCE

30. You will receive an aggregate sentence for both counts.
31. Your sentence is aimed at deterrence and is to punish you adequately.
32. **You are sentenced to an aggregate 20 month imprisonment term.**
33. **As I have explained above, I will only consider 4 months of your time in remand as time served and I will deduct this time from your sentence.**
34. **You have 16 months imprisonment remaining.**
35. I have the discretion to suspend your sentence whether in whole or in part.
36. Primarily considering the circumstance of the offence and your circumstance and the objectives of sentencing, **I order that 12 months of your remaining sentence is to be suspended for the next 3 years.**
37. Do not commit any other offence in the next 3 years, if you do, this 12 months imprisonment term held in waiting may be activated.
38. **You will serve your remaining 4 month imprisonment term immediately.**

39. 28 days to appeal.



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Lisiate T.V. Fotofili

Resident Magistrate

Dated at Tavua this 29th day of October, 2019

