

IN THE MAGISTRATES' COURT OF FIJI
AT SUVA
EXTENDED JURISDICTION

High Court Criminal Case No. HAC 263 of 2015
Magistrates' Court Criminal Case No. CF 1355 of 2016

STATE

v.

JERRY KAITANI

For the State : *Sergeant R. Ram of the Police Prosecution Department*

For the Accused: *In Absentia*

JUDGMENT

1. I remind myself that you are presumed innocent until proven guilty. I remind myself that it is for the State to prove each element of the offence against you. You need not prove anything.
2. You are charged with one count of "*Aggravated Burglary*" and "*Theft*".
3. The elements that the State must prove beyond reasonable doubt are as follows:

Aggravated Burglary

- (i) You
- (ii) In company with another or others
- (iii) Entered


- (iv) Into a building
- (v) As trespassers
- (vi) With intent to commit theft therein.

Theft

- (i) You
 - (ii) Dishonestly
 - (iii) Appropriated
 - (iv) Property belonging to another
 - (v) With intent to permanently deprive that other person of that property.
4. The State called **Ken Chand** who testified that on 26 July 2015, he discovered that someone or some people had broken into the Victoria Wines Warehouse that he was responsible for managing. All the doors were open, the security feed was cut and \$13, 000 worth of assorted liquor stolen.
5. The State also called **Inspector Mikaele Koro** who testified that on 28 July 2015 he interviewed you at the Criminal Investigations Division Office at Totogo Police Station. You were normal when you presented for your interview, were fit and had no complaints. He tendered your Record of Interview in Court as **Prosecution Exhibit No. 1**. He testified that he had asked you the questions contained in the Record and that you had given the answers recorded therein. He testified that you had not been assaulted, threatened or promised anything before, during or after your interview.
6. I continue to be satisfied beyond reasonable doubt that you were fit and well for your interview and that your admissions were obtained voluntarily and in circumstances that were objectively quite fair. In addition, I am satisfied beyond reasonable doubt that you had given the answers contained in the Record of your Interview with the Police.
7. You admitted to breaking into Victoria Wines in company with another person on the day in question. You admitted to forcing open the lock to the warehouse with a screwdriver you had brought from home and with the help of your accomplice, you stole liquor. You left your accomplice to look after the liquor while you went to look for a taxi. You found

a private vehicle willing to transport you, your accomplice and the stolen items and you then went to Kalekana and proceeded to drink the liquor you had stolen.

8. I am satisfied beyond reasonable doubt that the answers you gave to the Police during your Interview is true. I am therefore satisfied beyond reasonable doubt that you in company with another entered into the Victoria Wines warehouse as trespassers with intent to commit theft therein and while inside the building, you and your accomplice dishonestly appropriated alcohol valued at approximately \$12, 416.51 with intent to permanently deprive **Victoria Wines** of its property.
9. I find you guilty and I convict you of "**Aggravated Burglary**" and "**Theft**" as charged.


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Seini K Puamau
RESIDENT MAGISTRATE



Dated at Suva this 8th day of January 2021.