

IN THE MAGISTRATES' COURT OF FIJI

AT SUVA

Criminal Case No: -270/2023

STATE

V

ELENOA BUA SENIKURACIRI

For the Prosecution : Cpl Bola

For the accused: Mr.S.Matanitobua

Date of Sentence: 12th of June 2025

SENTENCE

1. ELENOA BUA SENIKURACIRI was charged with one count of theft contrary to section 291(1) of the Crimes Act.¹
2. The accused entered a plea of guilty and admitted to the summary of facts as presented by the Prosecution.
3. The summary of facts establishes that between 1 August 2014 and 10 August 2024, while employed as a cashier at Kundan Singh Supermarket in Tamavua, the accused unlawfully appropriated the sum of \$3,773.24, belonging to the supermarket. The offence was perpetrated through a series of transactions and was subsequently uncovered during an internal audit conducted by the supermarket.
4. Having considered the guilty plea, I am satisfied that it was unequivocal and hereby convict the accused on the charge of theft.
5. In determining the appropriate sentence for this offence, I shall employ the instinctive synthesis method, which is used in Fiji alongside the two-tier sentencing approach.
6. The Supreme Court of Fiji in Qurai v State² held that :

"It is significant to note that the Sentencing and Penalties Decree does not seek to tie down a sentencing judge to the two-tiered process of reasoning described above and leaves it open for a sentencing judge to adopt a different approach, such as "instinctive synthesis", by which is meant a more intuitive process of reasoning for computing a sentence which only requires the enunciation of all factors properly

¹ No. 44 of 2009.

² [2015] FJSC 15; CAV24.2014 (20 August 2015).

taken into account and the proper conclusion to be drawn from the weighing and balancing of those factors.”

7. The maximum penalty for theft under the Crimes Act is ten years’ imprisonment.
8. By stealing from your employer, you breached a position of trust.
9. In *Tubuna v State*,³ His Lordship Justice Sharma held that the applicable tariff for theft by breach of trust ranges from 18 months to three years’ imprisonment.
10. An aggravating factor in this case is the offence was committed over an extended period of time.
11. In written mitigation, it was submitted that you are currently 29 years old, married with two young children, and unemployed.
12. Your counsel further submitted that you are a first-time offender. However, it is well-established law that in breach of trust offences, little weight is accorded to an offender’s past good conduct (*State v Bole* [2005] FJHC 470; HAC0038S.2005S (4 October 2005)). Accordingly, I disregard your prior good behavior as a mitigating factor.
13. You entered an early guilty plea.
14. According to your counsel, you attempted restitution, which was declined by the complainant. With the court’s permission, you have since deposited the full amount stolen into the court registry.
15. Considering all relevant factors, I sentence you to 18 months’ imprisonment for this offence.
16. I must now consider whether to suspend the sentence imposed in this case.⁴
17. In *State v Raymond Roberts*⁵, her Ladyship Justice Shameem held that :

" the principles that emerge from these cases are that a custodial sentence is inevitable where the accused pleaded not guilty and makes no attempt at genuine restitution. Where there is a plea of guilty, a custodial sentence may still be

³ [2017] FJHC 231; HAA04.2017 (28 March 2017).

⁴ S26(2)(b), Sentencing and Penalties Act, No 42 of 2009.

⁵ (HAA 0053 of 2003S).

inevitable where there is a bad breach of trust, the money stolen is high in value and the accused shows no remorse or attempt at reparation".

18. ELENIA BUA SENIKURACIRI, you entered an early guilty plea and made full restitution. I accept that you have demonstrated remorse for your actions. Furthermore, you are a first-time offender and are married with dependent children. Having considered all these factors, I find that a suspended sentence would provide you with a suitable opportunity for rehabilitation.
19. Accordingly, I suspend the 18-month custodial sentence for a period of three years.
20. Suspended sentence is explained to the accused.
21. 28 days to appeal.

