

**IN THE SOLOMON ISLANDS MAGISTRATES' COURT**  
**AT HONIARA**  
Criminal Case No. 932 of 2019



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**REGINA**

**V**

**MICHAEL KIKO**

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Before: Principal Magistrate Ms. Fatimah Taeburi  
Mr. Vernon E. Taupongi (DPP) for the Crown  
Mr. Sholto R. Manebosa (PSO) for the Defendant

Date of Hearing: 17<sup>th</sup> August 2020  
Date of Sentence: 18<sup>th</sup> August 2020

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**SENTENCE**

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1. You pleaded guilty to one count of burglary contrary to section 299(a) of the Penal Code.<sup>1</sup>
2. The facts in this case are that you broke into the complainant's house sometimes between 5am and 6am. She woke up and saw you standing inside her room. You were wearing a long sleeved shirt and you covered your head. She screamed out of fright and terror. You ran away.<sup>2</sup>
3. It was later discovered that a number of valuable items were stolen from the complainant's house that night. The properties stolen included a grey laptop, a Samsung tablet, external drives, blue tooth speaker, mobile phones, some cash and foreign currencies and many more other items.<sup>3</sup>
4. Some of the properties stolen were recovered by the police from your house at Green Valley in Honiara. A significant amount was not retrieved.<sup>4</sup>

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<sup>1</sup> Section 299(a) of the Penal Code [Cap 26]

<sup>2</sup> Agreed facts filed on 10<sup>th</sup> August 2020

<sup>3</sup> Refer to footnotes 2

<sup>4</sup> Refer to footnotes 2

5. I enter criminal conviction against you based on those facts.
6. In sentencing you I take into account the following factors;
7. You broke into the complainant's house at a time when she and her family were deep in sleep and were at their most vulnerable state. At night time when people are asleep they are bound to let down their guards. No one is expected to sleep with one eye open. I have said this before in a lot of similar cases and I will repeat myself here. The one place that every person is entitled to feel safe and secure is in one's own home. You have intruded into the complainant's safe nest at a very vulnerable time. Not only that you broke into her house, but you went even further into her bedroom when she was sleeping. I take this very seriously. I can only imagine the fright and the terror she must have felt when she woke up and saw a stranger in her room. To make things worse, you covered your head. That must have been a very scaring sight and experience.
8. On this point I must quote the remarks made in the case of *Bade v Reginam*, in which it was stated,

*Anyone who breaks into a private house at night, however careful he may be to try and do it when the house is empty, runs the risk that there is someone inside. The effect on anyone who has been in a house when it is burgled can be extreme and may frequently have the same effect as an offence of violence. Even where the house was unoccupied at the time of the burglary, the sense of violation felt by the owners when they return can have very long term effects. The general rise in the incidents of burglaries in Honiara is causing a restriction on the style of life of many people.<sup>5</sup>*

9. The value of the items stolen in my view is substantial. Only part of it was recovered. I consider the loss suffered by the complainant.
10. I find that there was premeditation. The fact that you broke into the complainant's house in the early hours of that day shows that you have planned out your actions.
11. You have been previously convicted for stealing. You were sentenced to 9 months imprisonment. Although this fact is not aggravating to the circumstances of the current offending, your prior conviction means that I cannot treat like a first time offender. It also means that you still have not learnt from your previous case. I have also said this before and I will say it again, that man cannot steal to survive. Man must work and sweat to put food on the table. People who steal are lazy people.

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<sup>5</sup> [1988] SBHC 10

12. In your favour I take the following factors into account.
13. That you pleaded guilty. I give you full credit.
14. I must also give you credit for the fact that you did not commit any further violence on the complainant or other members of the household when you were caught. You ran away as soon as the complainant woke up.
15. I consider your age and your personal circumstances.
16. The maximum penalty for burglary is life imprisonment<sup>6</sup>.
17. In considering the appropriate sentence, I take into account again the remarks made in the case of *Bade v Reginam*, where the court stated,

*For a normal burglary case, the only appropriate penalty must be an immediate custodial sentence. Where the burglary is not aggravated in any way, the starting point for an adult first offender should be two years imprisonment. From that point, this court should consider any aggravating factors such as committing the offence with the support of others, theft of personal items that can be little or no value to the thief, general ransacking of the house, wanton damage, pre-planning and the degree of breaking necessary to gain entry. If such matters are present they should add to the penalty. Where masks are used, weapons are carried, threats are made or similar escalations in the seriousness of the offence are present, the penalty should be further increased and it would rarely be appropriate to pass sentence of less than 4 years.<sup>7</sup>*

18. In this case, a custodial sentence is inevitable.
19. I consider the fact that you covered your head when you broke into the house. Although it is not clear whether you were wearing a mask or not, but the act of covering your head can only mean that you were trying to hide your identity. I also consider the fact of your previous conviction. You must learn that it is wrong to steal from other people. Because of those facts, it is my view that the appropriate starting point is 3 years imprisonment.
20. I take into account the aggravating and mitigating factors. I am satisfied that the appropriate sentence is **4 years imprisonment**.
21. The sentence includes that time spent in custody.

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<sup>6</sup> Refer to footnotes 1

<sup>7</sup> Refer to footnotes 5

22. Right to appeal within 14 days from today.



Ms. Fatimah Me'ere Taeburi  
Principal Magistrate

Dated this 18<sup>th</sup> day of August 2020

