

IN THE HIGH COURT OF FIJI  
AT SUVA  
CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 73 of 2018  
[Magistrates' Court Criminal Case No. 246/18]

BETWEEN : STATE

AND : MARIKA BOLA

Before : Hon. Mr Justice Daniel Goundar

Counsel : Ms S Tivao for the State  
Accused in Person

Date of Hearing : 3 April 2018

Date of Judgment : 12 April 2018

SENTENCE

[1] Marika Bola, you appear for sentence after freely and voluntarily pleading guilty to attempted aggravated robbery contrary to sections 44 and 311 (1) (a) of the Crimes Act. Your guilty plea is informed and competent. The facts tendered by the prosecution support the charge. You are convicted as charged.

[2] The facts show a coordinated attack on the victim by a group of men. The victim is a 34-year old male taxi driver. On 9 February 2018, one of the accused hired the victim to take him from Fletcher Road to Daya Street. When they arrived at Daya Street, the other two accused got into the taxi and told the victim to take them to the city. While they were approaching Flagstaff, the accused in the front passenger seat pulled the hand break while the two accused at the back seat started punching the victim. The victim pleaded with them to take the money and leave him. When the victim heard that the perpetrators wanted to take his taxi, he sped off while honking the horn of the taxi and stopped at the nearest petrol station. When the vehicle stopped, the perpetrators got off

and fled the scene. The incident was witnessed by a police officer present at the petrol station. He gave a chase and caught you. Under caution you admitted to the allegation of attempted aggravated robbery. The victim was medically examined. He sustained mild bruising to his left eye.

[3] In mitigation you informed the court that you are 23 years old and married. You have a child and your wife is expecting your second child. Your family is depended on you. You come from a broken home. You left school after Year 8. You have not been able to make much of your life after leaving school. In 2012, you committed your first crime of burglary. Thereafter you committed six other offences. Your last offence was on 28 February 2017 for theft. You were sentenced to 10 months imprisonment suspended for 2 years. You committed the offence in this case during the operational period of your suspended sentence. You have not made use of the mercy and compassion shown to you in the past by the courts to change your anti-social behavior.

[4] The same maximum penalty prescribed for aggravated robbery applies to attempted aggravated robbery. The maximum is 20 years imprisonment. In *State v Susu* [2010] FJHC 226, a young and a first time offender who pleaded guilty to robbing a taxi driver was sentenced to 3 years imprisonment. In *State v Tamani* [2011] FJHC 725, this Court stated that the sentences for robbery of taxi drivers range from 4 to 10 years imprisonment depending on force used or threatened, after citing *Joji Seseu v State* [2003] HAM043S/03S and *Peniasi Lee v State* [1993] AAU 3/92 (apf HAC 16/91). In *State v Kotobalavu & Ors Cr Case No HAC43/1(Ltk)*, three young offenders were sentenced to 6 years imprisonment after they pleaded guilty to aggravated robbery. Madigan J, after citing *Tagicaki & Another* HAA 019.2010 (Lautoka), *Vilikesa* HAA 64/04 and *Manoa* HAC 061.2010, said at p 6:

Violent robberies of transport providers (be they taxi , bus or van drivers) are not crimes that should result in non-custodial sentences, despite the youth or good prospects of the perpetrators....

[5] Similar pronouncement was made in *Vilikesa* (supra) by Gates J (as he then was):

...violent and armed robberies of taxi drivers are all too frequent. The taxi industry serves this country well. It provides a cheap vital link in short and medium haul transport.... The risk of personal harm they take every day by simply going about their business can only be ameliorated by harsh deterrent sentences that might instill in prospective muggers the knowledge that if they hurt or harm a taxi driver, they will receive a lengthy term of imprisonment.

- [6] The only compelling mitigating factor is your early guilty plea. You have saved court time and resources.
- [7] The aggravating factors are that actual physical violence was inflicted on a taxi driver, resulting in a bruised eye.
- [8] You have been in custody on remand since your arrest on 9 February 2018, for which I make a downward adjustment to your sentence.
- [9] The purpose of sentence that applies to you is both special and general deterrence if the taxi drivers are to be protected against wanton disregard of their safety. I have not lost sight of the fact that you have taken responsibility for your conduct by pleading guilty to the offence. I would have sentenced you to 6 years imprisonment but for your early guilty plea. For your early guilty plea I give you a discount of 2 years.
- [10] You are sentenced to 4 years' imprisonment. I decline to fix a non-parole period to give you a chance to rehabilitate while serving your sentence.



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**Hon. Mr Justice Daniel Goundar**

**Solicitors:**

Director of Public Prosecutions for the State  
Accused In Person