

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 102 of 2018
[Magistrates' Court Criminal Case No. 355 of 2018]

BETWEEN : **THE STATE**

AND : **JONE DELAI**

Counsel : **Ms S Tivao for the State**
Accused in Person

Date of Hearing : **10 May 2018**

Date of Sentence : **16 May 2018**

SENTENCE

- [1] Jone Delai, on 3 May 2018, you freely and voluntarily pleaded guilty to a charge of robbery contrary to section 310(1)(a) of the Crimes Act, after waiving your right to counsel. After hearing you, the court is satisfied that your plea of guilty is informed and competent. You are convicted as charged.
- [2] The brief facts are that on 3 March 2018 at around 8pm the victim was walking along Velau Drive, Kinoya, when you approached him, slapped him on the ear and grabbed his mobile phone before fleeing the scene. The value of the mobile phone was \$139.00. The phone was recovered shortly after the incident.
- [3] You were arrested and interviewed under caution on 5 March 2018. You admitted the allegation. You have remained in custody on remand since your arrest.

- [4] The maximum penalty prescribed for robbery is 15 years' imprisonment. The tariff depends on the nature of robbery. In your case, you committed a street robbery or mugging.
- [5] The guidelines set out by the Court of Appeal in *Raqauqau v State* [2008] FJCA 34; AAU0100.2007 (4 August 2008) apply to your case. The Court said at [12]:
1. The sentencing bracket was 18 months or 5 years, but the upper limit of 5 years might not be appropriate 'if the offences are committed by an offender who has a number of previous convictions and if there is a substantial degree of violence, or if there is a particularly large number of offences committed'.
 2. An offence would be more serious if the victim was vulnerable because of age (whether elderly or young), or if it had been carried out by a group of offenders.
 3. The fact that offences of this nature were prevalent was also to be treated as an aggravating feature.
- [6] At the time of offending, you were 20 years old and unemployed. You dropped out of school after Form 2. You have informed the court that you have received vocational training in carpentry and joinery and have engaged in casual work in the past. You have four siblings. You are the youngest. You committed the offence when you went to reside with your elder sister when her husband was away from home for work.
- [7] By pleading guilty you have taken responsibility for your conduct. Your confession to police and your early guilty plea leads this court to conclude that you are truly remorseful. Apart from your expression of remorse, you have saved court's time and resources by pleading guilty.

- [8] I take into account your young age and previous good character. You got yourself in bad company and committed the offence. But you are matured enough to know the difference between right and wrong.
- [9] The aggravating factor is that street mugging is too prevalent in our community. Most of the street muggings are committed by unemployed youths. The courts have a duty to protect the public from anti-social behaviour that threatens safety and security of people walking on streets. A clear message must be sent to would-be offenders that if they engage in anti-social behaviour threatening public safety and security on streets, they are going to prison. The purpose of punishment for this type of anti-social behaviour is deterrence, both special and general.
- [10] The force used to steal was minimum. No weapon was used. Your criminality falls on the lower end of the tariff.
- [11] Taking all these factors into account, I sentence you to 18 months' imprisonment. There are no exceptional circumstances to suspend your sentence. Since you have been in custody on remand for two months and two weeks, the remaining term you will have to serve is 15 months and 2 weeks.



A handwritten signature in black ink, appearing to read "Daniel Goundar", written over a dotted line.

Hon. Mr Justice Daniel Goundar

Solicitors:

Office of the Director of Public Prosecutions for the State
Accused in Person