

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Crim. Case No: HAC 78 of 2018

BETWEEN: STATE

PROSECUTION

A N D: LUKE RAWALAI

ACCUSED PERSON

Counsel : Ms. B. Khantharia for the State
: Ms. L. Ratidara for Accused

Date of Sentence : 22nd August 2018

SENTENCE

1. Mr. Luke Rawalai, you are being charged with one count of Aggravated Robbery, contrary to Section 311 (1) (a) of the Crimes Act, which carries a maximum sentence of twenty (20) years imprisonment. The particulars of the offence are that:

Statement of Offence

AGGRAVATED ROBBERY: Contrary to Section 311 (1) (a) of the Crimes Act 2009.

Particulars of Offence

LUKE RAWALAI with others on the 10th day of February, 2018 at Raiwaqa in the Central Division, in the company of each other, robbed **BAL RAJ** of 1 x Forme brand mobile phone valued at \$99.00, 1 x car keys

valued at \$4.00 and \$315.00 cash all to the total value of \$418.00 the property of **BAL RAJ**.

2. You pleaded guilty for this offence on the 20th of August 2018. Satisfied by the fact that you have fully comprehended the legal effect of your plea and your plea was voluntary and free from influence, I convicted you for this offence.
3. According to the summary of fact, which you admitted in open court, that you with another had entered into the public convenience at the Raiwaqa Market at around 4.20 p.m on the 10th of February 2018 and robbed the complainant therein. The complainant, who is a taxi driver, had gone into the public convenience as he wanted to use it. While he was inside the public convenience, you and your accomplices entered into it and grabbed the complainant from his back. Thereafter, you and your accomplices had stolen one mobile phone, valued at \$99, one car key valued at \$4 and cash \$315 from the complainant.
4. Aggravated Robbery is a serious offence, which carries a sentence of 20 years imprisonment. The sentencing tariff is 8 to 16 years imprisonment. (Wallace Wise v State [2015] FJSC 7; CAV0004.2015 (24 April 2015)).
5. This is a crime of using violence force in order to steal from a person. Offences of this nature are prevalent in the society. The increasing crime rate of this nature has turned the society into a vulnerable and insecure place. Accordingly, I find this is a serious offence.
6. In view of the seriousness of this offence, it is my opinion that such offenders must be dealt with severe and harsh punishment. Therefore, the purpose of this sentence is founded on the principle of deterrence and protection of community.
7. Crimes of this nature could have the effect of endangering innocent public and their freedom of life. You and your accomplices have found an opportunity where the complainant was alone inside the public convenience and had no prospect of escape or seek help, to carry out this crime. You have used a substantial amount of violence in order

to execute this crime. Hence, I find the level of culpability is substantially high in this crime.

8. The impact of this offence on the complainant must be a horrified and frustrating experience. Specially, he was suddenly grabbed from his behind and stole his belongings while he was using public convenience. Therefore, I find the level of harm is substantially high in this offending.
9. You are not a first offender. Therefore, you are not entitled for any discount for your previous good character.
10. You have pleaded not guilty for this offence on the 3rd of April 2018. However, you changed your mind and pleaded guilty for this offence before this matter proceeds to the hearing, which demonstrate your remorse in committing this crime. Hence, you are entitled for a substantive discount for your early plea of guilty and remorse.
11. The learned counsel for the defence in her mitigation submissions stated that you are 26 years old and in a *de-facto* relationship. I consider your personal circumstances in this sentence, though it has no much mitigatory value.
12. Having taken into consideration the seriousness of this offence, the level of harm and culpability, your early plea of guilty, and your personal circumstances, I sentence you for a period of ten (10) years imprisonment for the offence of Aggravated Robbery contrary to Section 311 (1) (a) of the Crimes Act.
13. Having considered the seriousness of this crime, the purpose of this sentence, your age, and opportunities for rehabilitation, I find eight (8) years of non-parole period would serve the purpose of this sentence. Hence, you are not eligible for any parole for a period of eight (8) years pursuant to Section 18 (1) of the Sentencing and Penalties Act.

Head Sentence

14. Accordingly, I sentence you for a **period of ten (10) years imprisonment** for this offence of Aggravated Robbery, contrary to Section 311 (1) (a) of the Crimes Act. Moreover, you are not eligible for any parole for a period of **eight (8) years** pursuant to Section 18 of the Sentencing and Penalties Act.

Actual Period of Sentence

15. You have been in remand custody for this case for a period of six (6) months and four (4) days as you were not granted bail by the Court. In pursuant of Section 24 of the Sentencing and Penalties Act, I consider the period of six (6) months as a period of imprisonment that have already been served by you.
16. Accordingly your actual sentencing period is **nine (9) years and six (6) months** of imprisonment period, with **seven (7) years and six (6) months** of non-parole period.
17. Thirty (30) days to appeal to the Fiji Court of Appeal.




R.D.R.T. Rajasinghe
Judge

At Suva
22nd August 2018

Solicitors
Office of the Director of Public Prosecutions for the State.
Office of the Legal Aid Commission for the Defence.