

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Crim. Case No: HAC 335 of 2016

STATE

v.

SAULA VUNIVESI

Counsel: Ms S. Lodhia with Mr E. Samisoni for State
Accused In Person

Hearing: 16th and 18th October 2017

Summing Up: 24th October 2017

Judgment: 25th October 2017

Sentence: 27th October 2017

SENTENCE

1. Mr. Saula Vunivesi, you have been found guilty for one count of Aggravated Robbery, contrary to Section 311 (1)(a) of the Crimes Decree, which carries a maximum sentence of twenty (20) years of imprisonment period.
2. It was proved at the conclusion of the hearing, that you together with two other accomplices robbed the complainant on the 7th of September 2016. You and your two other accomplices approached the complainant, when he was coming out from a shop. You punched him on his face and then stole his mobile phone and money while your accomplices were holding him from his behind. Once you and your accomplices robbed the complainant, three of you fled the scene. While you were escaping the scene

of the crime, one of your accomplices tried to attack the complainant and his friend Sione, who were chasing after you, with a broken beer bottle.

3. This is a case of robbing a person in a public place. The offences of this nature are prevalent in the society. It is the duty of the court to make clear that these types of offences will be severely disapproved by the courts and be met with appropriately heavy punishment. Accordingly, the purpose of this sentence is founded on the principle of deterrence and the protection of community. I am mindful of the principle of rehabilitation; however, the seriousness of the offence outweighs the principle of rehabilitation.
4. The tariff for the aggravated robbery is 8 to 16 years of imprisonment period. **(Wise v State (2015) FJSC7; CAV0004.2015 (24 April 2015), Bonaseva v State (2015) FJSC12; CAV0022.2014 (20 August 2015), State v Nadavulevu - Sentence [2015] FJHC 651; HAC046.2015S (10 September 2015).**
5. I now draw my attention to determine the level of culpability and the harm caused by this offending. You have punched the complainant before you robbed his mobile phone and money, while two of your accomplices were holding him from his behind. One of your accomplices then tried to attack the complainant and his friend Sione when they were chasing after you with a broken bottle of beer. You then fought with the complainant, when the complainant approached you with DC Pelasio and escaped from the scene. Accordingly, I find there is a substantial amount of force has been used by you and your accomplices in order to commit this crime and also in order to escape from the scene. Hence, I find the level of culpability and harm is substantially high. Having considered the seriousness of this offending and the level of harm and culpability, I select thirteen (13) years as the starting point.
6. You and your accomplices attacked and robbed the complainant while he was walking out from the shop. You punched the complainant on his face while other two accomplices were holding him from his behind. It is clear that you suddenly attacked the complainant while he was in position neither to react or escape. Accordingly, it appears that you found an opportunity, when the complainant was vulnerable to react,

in order to execute your criminal act. I find these factors as aggravating circumstances of this offence.

7. You have been adversely recorded with forty one (41) previous convictions. Hence, you are not entitled for any discount for your previous good character.
8. You are married with one child. You submitted in mitigation that you are the sole bread winner of your family. Though, the family background of the accused has less mitigatory value. I consider these grounds as the only mitigatory factors in your favour.
9. Having considered the above discussed aggravating factors, I increase two (2) years and reach to interim imprisonment period of fifteen (15) years. I reduce one (1) year for personal circumstances, reaching the final sentence as fourteen (14) years imprisonment period.
10. Having considered the purpose of the sentencing, your age, and the opportunities for rehabilitation, it is my opinion that twelve (12) years of non-parole period would adequately serve the purpose of this sentencing. Hence, you are not eligible for any parole for a period of twelve (12) years pursuant to Section 18 (1) of the Sentencing and Penalties Act.

Final Sentence

11. Accordingly, I sentence you for a **period of fourteen (14) years imprisonment** for offence of Aggravated Robbery, contrary to Section 311 (1) (a) of the Crimes Act. Furthermore, I order that you are not eligible for any parole for a period of **twelve (12) years** pursuant to Section 18 (1) of the Sentencing and Penalties Act.

Actual Period of Sentence

12. You have been in remand custody for this case for a period of eight (8) months 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 eight (8) months as a period of imprisonment that have already been served by you.

13. Accordingly your actual sentencing period is **thirteen (13) years and four (4) months** of imprisonment, with **eleven (11) years and four (4) months** of non-parole period.
14. This sentence to be served concurrently with the remaining period of the imprisonment that you are currently serving.
15. Thirty (30) days to appeal to the Fiji Court of Appeal.



R.D.R.T. Rajasinghe
Judge

At Suva
27th October 2017

Solicitors

Office of the Director of Public Prosecutions for the State.
Accused In Person.