

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**CRIMINAL JURISDICTION**

**Crim. Case No: HAC 254 of 2021**

**STATE**

vs.

**FILIKESA DEKITA ROKODINADINA**

**Counsel:** Mr. L. Baleilevuka for the State  
Mr. A. Waqanivalagi for the Accused

**Date of Hearing** : 9<sup>th</sup> February 2023

**Date of Closing Submission:** 9<sup>th</sup> February 2023

**Date of Judgment** : 12<sup>th</sup> February 2023

**Date of sentencing Submission:** 21<sup>st</sup> February 2023

**Date of Sentence** : 24<sup>th</sup> February 2023

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**SENTENCE**

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**Introduction**

1. The Accused Mr. Filikesa Dekita Rokodinadina was found guilty and convicted in absentia after trial on the 17<sup>th</sup> February 2023 of three counts of Aggravated Robbery Contrary to Section 311(1) (b) of the Crimes Act, 2009 by this Court. The Accused was apprehended when this was set for sentence ruling and upon having both parties this sentence ruling is now made.
2. If I may recap the facts, you entered the restaurant named Go Fry Restaurant at Nadera on the 30<sup>th</sup> October, 2021. Around 8.30pm you entered after the customer's left and when

only the two female employees were there. Agnus and Kajal were washing and cleaning restaurant when you suddenly walked in and demanded money. You take a kitchen knife and pushed them towards the counter where the till was and take the entire collection of the day and also the two mobile phones of the employees. You have no doubt being observing and entered as soon as the customers left and has taken advantage of the vulnerability of the two victims.

3. You made attempt to get away but due to the shouting and pursuing by the victims you were caught red handed by a group of vigilant policeman who were there. You did cause an injury to Kajal in the course of this heist. You carried out this daring robbery with uttered disregard to the person and property of the victim. These are the bare facts of your offending.
4. If I may consider the culpability and the harm factors of your offending, you with impunity and in the most nonchalant manner entered the business premises of the complainants and armed yourself. You disseminated some violence on the victims and in the circumstances and inflicted fear and shock to the victim. The offences of robbery, burglary and theft are certainly prevalent and the number of offenders brought before the courts for committing such offences is alarming and significant. This type of robberies of especially business premises will directly affect livelihood of all those who engage in this type of trade and businesses and have a ripple effect on the economy and peaceful life of the society at large.
5. The insecurity that is brought about by the prevalence of this type of offences is significant. You put the victims into fear of immediate and imminent harm and deprived of them of their property which certainly would have caused anxiety and trauma to any victim in similar circumstances. This certainly would have been a horrific experience for the victims to be so treated by the two of you in this manner.

#### Sentencing regime

6. In selecting the starting point of both your sentences for the Count of Aggravated Robbery, this Court is required to have regard to the objective seriousness of the offence. The maximum penalty prescribed for aggravated robbery is 20 years imprisonment thus it is considered a serious offence. As for the tariff determined in

*Wallace Wise v State [2015] FJSC 7 CAV0004.2015* (24<sup>th</sup> April 2015) is a range between 8 to 16 years imprisonment depending on force used or threatened.

### Sentence

7. Section 17 of the Sentencing and Penalties Act 2009 (“Sentencing and Penalties Act”), reads thus;

*“If an offender is convicted of more than one offence founded on the same facts, or which form a series of offences of the same or a similar character, the court may impose an aggregate sentence of imprisonment in respect of those offences that does not exceed the total effective period of imprisonment that could be imposed if the court had imposed a separate term of imprisonment for each of them.”*

8. The three counts of aggravated robbery for which you have been convicted are offences founded on the same facts and are of similar character. In accordance with section 17 of the Sentencing and Penalties Act, I consider it just and appropriate to impose an aggregate sentence for both offences having the Aggravated Burglary count as the base sentence as it is the more serious of the two offences.
9. Upon considering the gravity and the objective seriousness of the offence of Aggravated Robbery, to my mind it is reasonable and pick 8 years’ imprisonment as the starting point of the aggregate sentences of your sentence for these offences. However, the final sentence will depend on the mitigating and aggravating factors which I will now proceed to consider.
10. First, I will consider the aggravating factors. I observe the following aggravating circumstances of your offending:
- a. The offence was committed at night,
  - b. Acted with some premeditation,
  - c. Invasion of a business premises,
  - d. One complainant sustained an injury,
  - e. A knife was used and the complainants were intimidated,
  - f. you acted with complete impunity and was bold,
  - g. there was some planning in this offending,
  - h. the victims were vulnerable person due to the nature of their employment,

- i. you manipulatively took advantage of the said vulnerability, and
- j. acted in total disregard of the property rights of the complainants.

11. The fact of you absconded will not in any way be considered against you in sentencing. I am inclined to add 3 years to the starting point for the above-mentioned aggravating factors bringing the interim sentence to 11 years imprisonment.

#### Mitigating factors

12. Now, I will consider the mitigating factors. I observe the following mitigating circumstances of your offending:

- a. You were around 22 years of age at the time of the offending, was brought up by your father and grandmother who are both now dead;
- b. most of the stolen items were recovered, and;
- c. you have no previous convictions as per the antecedent report thus I will consider you as being a person of previous good character;
- d. you are remorseful and undertake not to re-offend;
- e. corporated with the police;
- f. I have considered the letter tendered to court by his aunt in mitigation of your sentence.

13. As for your mitigating factors I am inclined to deduct 3 years from the sentence bringing your aggregate sentence down to 8 years imprisonment.

14. I am mindful that imprisonment will inevitably impose significant hardship and despair on the immediate family of the Accused person. Unfortunately, this is an all too common and frequent consequence of sentencing. However, such hardship or despair cannot be an overriding mitigating factor in cases where the objective gravity of the offences and the presence of aggravating factors call for a custodial sentence as in the present offending.

#### Non-parole period

15. Under section 18 (1) of the Sentencing and Penalties Act (as amended), a non-parole period will be imposed to act as a deterrent to the others and for the protection of the

community as well. On the other hand, this court cannot ignore the fact that the accused whilst being punished should be accorded every opportunity to undergo rehabilitation.

16. Considering the above, I impose 8 years as a non-parole period to be served before the accused is eligible for parole. I consider this non-parole period to be appropriate in the rehabilitation of the accused and also meet the expectations of the community which is just in the circumstances of this case

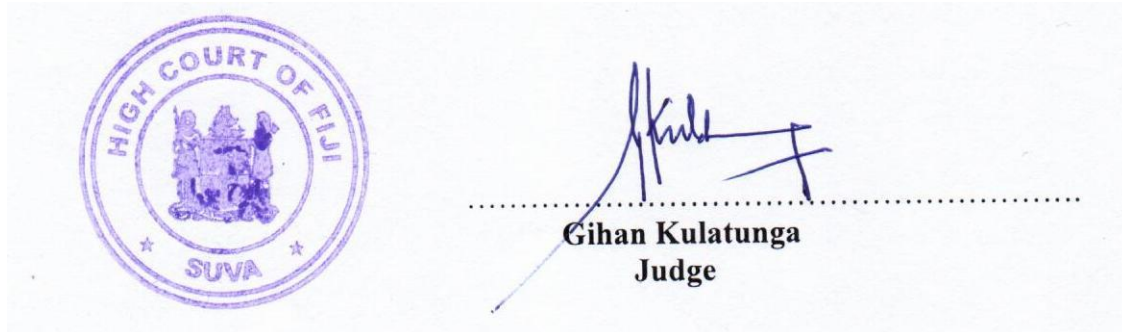
#### Head Sentence

17. Accordingly, I hereby sentence you Mr. Filikesa Dekita Rokodinadina for a period of 8 years' imprisonment for the offences of Aggravated Robbery. However, you are not entitled to parole for 6 years pursuant to Section 18 (1) of the Sentencing and Penalties Act.

#### Actual Period of the Sentence

18. I also observe from the court record and the submissions that you have been in remand since the 30<sup>th</sup> of October 2021 at until 3<sup>rd</sup> June 2022 from which day you have been absconding. This is around 7 months. In the exercise of my discretion and in accordance with section 24 of the Sentencing and Penalties Act the sentence is further reduced by 6 months upon it being considered as a period of imprisonment already served. In view of the above, the final sentence will be 7 years and 6 months imprisonment.
19. Having considered section 4 (1) of the Sentencing and Penalties Act and the serious nature of the offences committed compels me to consider the purpose of this sentence is to punish offenders to an extent and in a manner which is just in all the circumstances of the case and to deter offenders and other persons from committing offences of the same or similar nature.
20. Accordingly, the actual total period of the aggregate sentence imposed on the Accused is 7 years and 6 months imprisonment with a non-parole period of 5 years and 6 months.

21. You have 30 days to appeal to the Court of Appeal if you so desire. As the Accused is absconding as at today, this sentence will commence and take effect upon his apprehension and from the date of committal to custody.



**At Suva**

24<sup>th</sup> February 2023

**Solicitors**

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