

IN THE HIGH COURT OF FIJI
AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO: HAC 078 OF 2008

STATE

-v-

PAULIASI K. TUIMOUTA

Date of Hearing: 6th July 2009

Date of Sentence: 7th July 2009

Counsel: Ms W. George for State
Mr. P. Rigamoto (duty solicitor) for Accused

SENTENCE

- [1] The accused is convicted of larceny on his plea of guilty after the charge was reduced from robbery with violence. The plea was entered at the first reasonable opportunity.
- [2] The facts are that on 27 May 2008 at around 1pm, the accused hired the complainant's taxi to go to Suva Cemetery. Upon reaching the cemetery the accused grabbed the complainant's shirt pocket and fled with FJ\$37.94 and US\$1.00. Later on the same day the complainant identified the accused to a police officer. The police officer searched the accused and found the stolen money on him. Under caution, the accused admitted the offence.
- [3] The accused is 24 years old and single. He resides with his elderly father and assists him with farming. The accused comes from a broken home. His parents separated when he was young. He was raised by his mother and step father. The accused re-united with his biological father at the age of 23 years.
- [4] The tariff for simple larceny is 2-9 months imprisonment for a first time offender (**Ronald Vikash Singh v. State** HAA 0025 of 2002). On a second conviction for larceny, a sentence in excess of 9 months imprisonment is imposed, depending on the value of goods stolen and the circumstances of the stealing (**Waisale Vakarauvanua v. State** Criminal Appeal No. HAA0051 of 2004S). Suspension of sentence is reserved for petty theft, or first offenders.
- [5] The accused has six previous convictions since 2005. This is his second conviction for larceny.

- [6] I consider the early guilty plea, remorse, recovery of stolen money, cooperation with the police, and the disadvantaged background of the accused as mitigating factors. The aggravating factor is the use of the complainant's taxi, without payment of fare before stealing from him.
- [7] I consider 18 months imprisonment as my starting point and add 6 months to reflect the aggravating factor. I deduct 12 months for the mitigating factors and arrive at a sentence of 1 year imprisonment.
- [8] The accused has spent 5 months and 17 days in remand. I therefore further reduce the sentence by 6 months to reflect the time spent in remand.
- [9] The accused is sentenced to 6 months imprisonment. I find no special circumstances to suspend the sentence.
- [10] The recovered money to be returned to the complainant.

Daniel Goundar
JUDGE

At Suva

7th July 2009

Solicitors:

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