

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 077/2008

BETWEEN: THE STATE

AND: PAULIASI KURUKIBULU TUIMOUTA

Hearing: 30th July 2009

Sentence: 10th August 2009

Counsel: Mr J Singh for the State

Accused: In person

SENTENCE

1. Pauliasi K Tuimouta, on 20th June 2008, you were charged with "robbery with violence", contrary to section 293(1) (b) of the Penal Code, Chapter 17. On 4th July 2008, the Court explained to you your right to Counsel. On 17th October 2008, you indicated your

wish to represent yourself. You repeated the same on 30th July 2009. The information was put to you, and you pleaded guilty to the charge.

2. The prosecution read their summary of facts to you. They said, you are 23 years old and unemployed of Wailea Settlement, Vatuwaqa. The prosecution said that, on 26th May 2008, at about 4.30pm, you hired the complainant's taxi, registration number LT2141, to convey you to Suva Cemetery, to pick up your parents, who you said, were cleaning the cemetery. In fact, this was a lie. The prosecution said, as soon as you two reached the Suva Cemetery, you got hold of the complainant's neck, pressed it hard, and stole \$180 cash from him. You later fled into the bushes. The complainant reported the matter to the Police.
3. After pleading guilty and since you were legally unrepresented, the Court checked with you, to see that the ingredients of "robbery with violence", were satisfied in this case. You admitted to the Court, that you stole the complainant's \$180 cash, on 26th May 2008, and used personal violence on him, at the time. On that basis, the Court found you guilty as charged.
4. Your previous convictions were shown to you, and you admitted four larceny type offences and one criminal trespass convictions,

since 2005. You then made your plea in mitigation, and I have taken note of them. I understand you are 25 years old now, single and a subsistence farmer. I note also your apology to the Court, the fact that the complainant was not seriously injured. In fact, no medical report was presented to the court. I take note of your guilty plea, and the fact that, you said, you have been remanded in custody for 9 months. I also note that you only stole \$180, which is not much, by today's standard.

5. "Robbery with violence" is a serious offence, and it carries a maximum sentence of life imprisonment. The tariff for committing violent robberies on taxi drivers is a sentence between 4 to 7 years imprisonment. See Inoke Ratubuli & Another vs The State, High Court, Suva, Criminal Appeal No. HAA 154 of 2005, per Justice Shameem, page 3.
6. The actual sentence passed on those found guilty of violently robbing taxi drivers has ranged from 3 to 6 years in prison. In Meli Maisema vs The State, High Court, Suva, Criminal Appeal No. HAA 122 of 2007, the appellant threatened the taxi driver with death and stole his taxi meter, mobile phone and cash worth \$900. The Magistrate Court sentenced him to 3 years imprisonment. On appeal, the High Court dismissed the same. In Aminio Mafutuna vs

The State, High Court, Suva, Criminal Appeal No. HAA 153 of 2005, the accused was given 3½ years prison for assaulting the taxi driver and stealing his taxi meter and car stereo, worth \$300. In Inoke Ratubuli & Another vs The State (supra) the first appellant was given 6 years imprisonment for assaulting the taxi driver, and stealing \$45 from him.

7. I agree with what Her Ladyship Justice Shameem said in Inoke Ratubuli & Another vs The State (supra), "... the Courts take a serious view of attacks on taxi drivers and other drivers of public service vehicles. The public depends on them and they in turn must trust the public, often taking their passengers to remote parts of the country. Attacks on them are shameful and calls for deterrent sentences...", (page 4).
8. In this case, I start with 4 years imprisonment. The aggravating factors were tricking the driver to go to the Suva Cemetery, on the pretext of picking up his parents, forcefully holding the driver's neck and thereby threatening him with serious bodily injury, and thereafter stealing his \$180. For these, I would increase the sentence to 7 years in prison. The mitigating factors were his guilty plea, the fact that the driver was not injured, and that he had spent

9 months in custody while on remand. I therefore decrease the sentence to 3 years imprisonment.

9. You are convicted as charged and sentenced to 3 years imprisonment concurrent to your present prison sentence.

[Salesi Temo]
ACTING JUDGE

AT Suva

10th August 2009