

**IN THE COURT OF APPEAL OF TONGA**

**CRIMINAL JURISDICTION**

**AC 8 of 2013**

**NUKU'ALOFA REGISTRY**

**[CR 48 of 2011]**

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**BETWEEN : 'EMILE LONGANI - Appellant**

**AND : REX - Respondent**

**Coram : Salmon J  
Blanchard J  
Ward J**

**Counsel : Mrs Vaihu for the Appellant  
Mr Kefu SG for the Respondent**

**Date of Hearing : 4 April 2014**

**Date of Judgment: 9 April 2014**

## JUDGMENT OF THE COURT

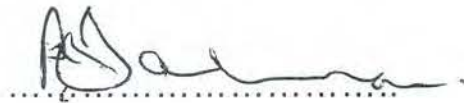
- [1] The appellant appeals out of time, with leave, against a sentence of 12 years imprisonment (with the last 2 years suspended) imposed by Shuster J after the appellant pleaded guilty to a single count of abetment to armed robbery.
- [2] The Crown accepts that the sentence was manifestly excessive especially taking into account a sentence of 5 years imprisonment subsequently imposed on a co-offender, who also had the benefit of suspension of the last 2 years of his sentence. He was ordered to pay compensation of \$7000, which has been paid.
- [3] The two offenders lured the victim to the wharf at Tu'imatamoana at around 6am on 29 May 2010 on the pretence of being interested in selling sea cucumbers. The co-accused approached the complainant's truck with a .22 bolt action rifle which he pointed at the victim, removing the keys of the truck. The co-accused hit the victim on the head with the butt of the rifle. The appellant then grabbed from the back seat a bundle of cash amounting to \$15,000. The appellant then drove the co-accused away from the

scene of the crime in another vehicle. For his part in the robbery the co-accused gave the appellant \$2000.

- [4] The accused entered an early guilty plea. He had a previous conviction for drug growing and possession for which he had served a 3 year sentence. He was 31 at the time of the present offending.
- [5] We consider that the sentence imposed on the co-offender was lenient and presumably gave some credit for the payment of the compensation.
- [6] The aggravating circumstances, so far as the appellant is concerned, are his participation in a crime involving (a) the use of a firearm, (b) violence against the victim and (c) the taking of a large sum of money. He was not a first offender but had no previous conviction for violent offending. He must receive credit for his guilty plea. Counsel for the respondent also acknowledged that the appellant has potential to rehabilitate himself.

[7] We consider that in these circumstances the appropriate sentence is one of 5 years imprisonment with the final 2 years suspended for 2 years.

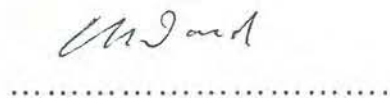
[8] The appeal is allowed, the sentence of 12 years imprisonment is quashed and a sentence of 5 years imprisonment imposed, with the final 2 years suspended for 2 years.



**Salmon J**



**Blanchard J**



**Ward J**