

**IN THE SUPREME COURT OF TONGA  
2016  
CRIMINAL JURISDICTION  
NEIAFU REGISTRY**

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*08/11/16*  
**CR 56 of**

**REX**

**V**

**SIONE FAKA'ILOATONGA TE'EKIU**

**BEFORE HONOURABLE JUSTICE CATO**

**VERDICT AND REASONS**

Mrs. Langi for the Crown

The Accused was unrepresented

1. The accused, Sione Te'ekiu, was charged with one count of robbery contrary to section 154(1) of the Criminal Offences Act and one count of common assault contrary to section 112 (a) of the Criminal Offences Act.
2. The particulars were that on or about the 14<sup>th</sup> November, 2015 at Ta'anea, he did take approximately \$400 from 'Umeahola Vaitai by using violence against him, in that he

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punched him on his face so as to put him in fear and thereby overcome his opposition to the taking.

3. It was further alleged that he did during the same incident willfully and without justification assault 'Umeahola Vaitai when he punched him on the left side of his face without his consent.
4. The evidence was in a narrow compass. The complainant, a man aged 78, had been drinking Kava in a club at Ta'anea since daylight. He gave evidence that latish in the evening, a man had entered into the club who was very drunk. He had been drinking kava but had said to the man you know it is taboo for alcohol drunken people to come to the kava club but you still do it. He returned to his drinking. Another man Pohiva Motulalo, who knew the accused as his neighbor, identified him in evidence as the young man who had entered the club twice and whom he had asked the Treasurer to eject.
5. The complainant after he said he had consumed enough Kava and in his words was drunk walked home. On the way, he saw a man apparently asleep near the Mormon church. He shone his torch on him and the person got up and punched him twice

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and snatched his wallet and also took his torch. He said he sustained an injury to his mouth and his eye.

6. During the course of the altercation, he said his assailant accused him of being one of those who had spoken out towards him about his drunkenness at the club. He said he lost his slippers (jandals) that evening during the incident.
7. The next day, he went to the President of the club and asked him to take him to the place where the drunken person who had come into the club resided. This person by the name of Halatu'u did so, and called out the name of the accused, who came forward at his address. The complainant said he recognized the accused was wearing his slippers. He told him to take them off and give them to him. The accused did so. The accused said they were his slippers. The complainant said he went to the accused's residence about 7-8 o'clock am. He also said the accused had denied attacking him.
8. He identified the slippers produced in evidence as his slippers. The accused suggested to the complainant in cross-examination that he had said the complainant should go to the police; but the complainant denied he had said this. He

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also said that he left about a half to an hour after the drunk young man left. There was no one, other than that young man he said, who had been excluded from the club.

9. The accused made a record of interview to the police on the 20<sup>th</sup> November, 2015 and had earlier on the 17<sup>th</sup> November given a witness statement. In his record of interview and in his statement, he maintained the slippers were his and not the accused's. He said they had been recently purchased for him by a person who gave also evidence in defence. He denied he had assaulted or robbed the complainant. He admitted the complainant had come to his home but rather later and after a third person, also called as a defence witness, had returned his slippers to him prior to the accused arriving. He said he had lost them that evening. This was confirmed by the witness who had said he had taken them from the accused before he entered the kava club because he was drunk. The accused gave evidence also denying robbery and maintaining the slippers were his.

**FINDINGS**

10. Although the complainant was aged and had difficulty recalling when the incident happened, otherwise I considered that he gave a reliable account of not only what had taken place earlier at the club concerning the incident with the drunk, which was confirmed by Pohiva Motulalo; but also what transpired after he left the club. What I consider most important is that he recalled what his assailant had said about his confrontation at the club. This was the signature which had motivated him to approach the President of the club the next day for assistance to locate the drunk. He did not know who the man was nor did he identify the accused as his attacker.
  
11. I accept also that the accused was, as the complainant said, the only person ejected from the club that night. There is no suggestion any other person was. On this evidence alone, I am satisfied beyond a reasonable doubt that it was the accused who attacked and robbed the complainant of the sum of money namely \$300.00, and also assaulted him.

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12. The prosecution contended that the slipper further confirmed the identity. The jandal, on inspection, did not look to me be new as the accused claimed but I consider it unnecessary for me to resolve the conflict on this point between the accused and his witnesses and the complainant. I am satisfied beyond any reasonable doubt, that the complainant would not have been in a position to pursue his attacker the next day unless the accused had volunteered during the incident the conversation about his drunkenness. Accordingly, irrespective of the evidence concerning the slipper, I find the accused beyond any reasonable doubt stole \$300 on or about the 14<sup>th</sup> November, 2015 and inflicted violence on the complainant in doing so. I also find him guilty for the same reasons of assault.

**VERDICT**

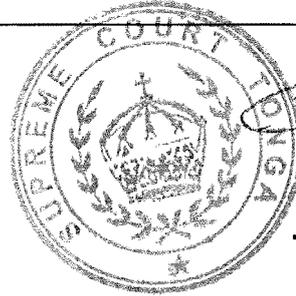
- a. Robbery. I find him guilty of robbery and convict him accordingly.
  
- b. Assault I find him guilty of assault and convict him accordingly.

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**DATED: 18 OCTOBER 2016**



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**JUDGE**