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IN THE SUPREME COURT OF TONGA
CRIMINAL JURISDICTION
NUKU'ALOFA REGISTRY

CR 118 of 2021

REX

-v-

Lisiate LAKALAKA

SENTENCING REMARKS

BEFORE : THE HONOURABLE COOPER J

Counsel : *✓* Ms. 'E. Lui for the Prosecution

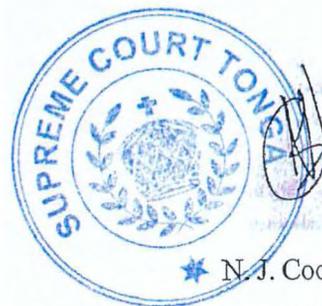
Defendant in person

Date of sentencing : 7 September 2021

1. The defendant has pleaded guilty to serious house breaking contrary to section 173 (1) (b) and (5) Criminal Offences Act and a count of theft contrary to section 143 (a) and 145 (a) Criminal Offences Act; which relate to the occasion on 19th February 2021 when he entered Mr. Sione Lauti's home and stole a HP Laptop, a MacBook pro and an iPhone with a total value of \$10,900.
2. Mr. Lakalaka was caught for this offence when he tried to sell the goods. In the course of travelling about the neighbourhood beforehand he was noticed with these items and when some were sold and others attempted to be sold the real owner, Mr. Lauti, was made aware and he in turn reported the matter to the police.
3. Mr. Lakalaka was arrested and on 3rd March 2021 he was interviewed and admitted the offending to the police.
4. The goods were all recovered and returned without damage or loss.
5. Mr. Lakalaka pleaded guilty before me at the first opportunity.

6. It is noteworthy that in 2018 he was sentenced to a month's imprisonment for theft and in 2019 to a total of 4 months' imprisonment for house breaking and simple assault.
7. The Crown submit that the aggravating features are previous convictions for relevant offences and it was a crime of opportunity.
8. The mitigating features his early plea of guilty, that he co-operate with the police and that the good were returned intact.
9. For serious housebreaking the maximum sentence is 10 years, for theft 7 years.
10. Helpfully I have been directed to the case of *R v Liku* (unreported, 47/2019, Cato J.) where a sentence of two years' imprisonment was imposed for a house breaking and associated theft were electrical items, including televisions and a gaming system to a total value of \$13,900 was taken.
11. Also *R v Malafu* CR 133/20216 for the same two offences of serious house breaking and theft were valuable and irreplaceable heirlooms in the form of Tongan mats with a value of in excess of \$15000 a starting point of 3 ½ years was deemed appropriate.
12. It is with all this in mind a turn to consider the appropriate sentence.
13. It seems to me that what really is the aggravating feature is the targeting of high value electrical equipment, easy to steal and sell on.
14. I distinguish *R v Malafu* from *R v Liku* for the simple reason that the latter deals with the stealing of similar electrical equipment; and combined with the fact that the value is similar and in *R v Malafu* the items could not be replaced and had high sentimental value making their being stolen a greater loss,
15. I make count 2 the head sentence.
16. Therefore I conclude the right starting point is one of 2 years' imprisonments on that count.
17. I reduce that by 30 %, 8 months, for the early guilty plea and that gives a sentence of 16 months' imprisonment.
18. Count 1 a sentence of 10 months concurrent.

19. Because of his relatively recent convictions for like matter I decline to suspend any portion of the sentence.
20. The overall sentence is 16 months' imprisonment that is to run from the date he was arrested and remanded for these offences, 3rd March 2021.



NUKU'ALOFA
7 September 2021

* N. J. Cooper
J U D G E