

General  
IN THE SUPREME COURT OF TONGA

CRIMINAL JURISDICTION

NUKU'ALOFA REGISTRY

Judgments file  
08/06/10  
NO. CR.151 of 2009

REX

-V-

SATUI, MAKALOFI

BEFORE THE HON. JUSTICE ANDREW

Counsel : Ms Puloka & Mr Pouono

Dates of Hearing : 19 April, 2010

Date of sentencing : 23 APRIL 2010

### SENTENCING

The accused pleaded guilty to one count of housebreaking and one count of theft.

The particulars of those offences are that on or about 22<sup>nd</sup> July 2009 at Ma'ufanga he did enter the International Metropole Company Limited building as a trespasser and committed a crime therein.

And secondly he did on or about 22<sup>nd</sup> July 2009 at Ma'ufanga, did honestly take without any colour of right the following items belonging to Gui An Ye :

Cash \$800.00

01 Computer laptop valued @ \$1,859.43

A statement of summary of facts is as follows:

*On or about the 22 July 2009, at approximately 02:00pm the accused (Makalofi Satui) broke into the room of Gui An Yeat International Metropole Company Limited located at Small Industries. He stole from inside this room \$800.00 and a laptop belonging to Gui An Ye.*

*On the 25<sup>th</sup> July 2009, the complainant (Hailong Ning) entered his friend Gui An Ye's room. He noticed that the room looked as if it had been broken into. He also realized that cash worth \$800.00 was missing as well as a computer laptop. The complainant then called the police station and reported the incident.*

*At approximately 5pm, Police officers Lemoti Finau, 'One'one, Tu'ivai and Feki went straight to the scene of crime as soon as they received the report. The complainant showed them a video produced by a security camera. This camera had recorded the alleged incident.*

*The video that on the 22 of July 2009, the accused wearing shorts and a shirt climbed up the stairs towards the room that was broken into. He was not carrying anything with him on his way up but when the video showed the accused climbing back down the same set of stairs about 20 minutes later, he was carrying a sling bag which allegedly contained the laptop and \$800.00.*

*Once police officers were able to identify the accused, they arrested him on the 26 July 2009.*

*On the 28 July, 2009, Police officers obtained search warrant for the house of the accused. They found in his room the exact same clothes matching what the accused had worn in the video recorded by the security camera.*

*The accused denied the offending during his caution interview and is a first time offender.*

The accused is aged 35. A background to this matter is that the accused was a deportee from Australia. He has a long history of mental illness and a known sufferer of schizophrenia; following his arrest in 2009 he was held in custody and then held at the psychiatric unit at Vaiola Hospital. He has been in custody now for 9 months. A trial was convened and it was expected that he was unfit to plead. However the report from the Psychiatric Unit advised that he was now, following treatment, in a state of remission and understood the meaning of the words "guilty". The accused readily pleaded guilty to both counts.

The conclusion of the psychiatric centre is as follows:

*"Makalofi, most likely will continue committing the above offences if medication is not maintained and reviewed regularly.*

*The condition that he suffers from, Paranoid Schizophrenia – stressors in the community or elsewhere will worsen his condition. Therefore if he is to be incarcerated, we recommend the psychiatric unit at Vaiola Hospital, as an ideal place for his management".*

Clearly his condition played a role in his committing three offences and is , I think an appropriate consideration in relation to any sentence to be imposed.

He has no prior convictions in Tonga although it is stated that he was frequently in trouble in Australia.

Sentencing in these circumstances is difficult. It is felt that he will or may not reoffend only provide that treatment and medication is continued.

In the circumstances I propose to sentence the accused in both counts concurrent as follows

Sentenced to 18 months imprisonment on both counts to be served concurrently. The sentence is to date from the 23<sup>rd</sup> July, 2009.

9 months of the sentences are suspended for a period of 2 years upon condition:

1. That the accused undertake the program of life skills as conducted by the Salvation Army.
2. He is to attend the Psychiatric Unit at Vaiola Hospital each Friday for continued treatment and medication for the medical condition which has been diagnosed by the Psychiatric Unit.

The accused having served the period of 9 months in custody is to be released today.

**Dated : 23 APRIL 2010**

