

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

NO. CR 1 of 2008

REX

-V-

VAEA TAKAI

BEFORE THE HON. JUSTICE ANDREW

Counsel : Ms Finau for the Crown and ✓  
Mr Pouono for the Accused

Dates of Hearing : 4<sup>th</sup> April, 2008.

Date of sentencing : 29<sup>th</sup> April, 2008.

**SENTENCING**

The accused pleaded guilty to 3 Counts of housebreaking and 2 Counts of theft.

The particulars of each count are as follows:

(1) Count 1 Housebreaking.

On or about 23<sup>rd</sup> September 2008, at 'Ahau you entered LIKU'ALOFA bar owned by PESETI MA'AFU as a trespasser and committed a crime therein.

(2) Count 2 Housebreaking.

On or about 1<sup>st</sup> October, 2007 at KOLOVAI you entered the dwelling house of MAKELETA TAI as a trespasser and committed a crime therein.

(3) Count 3 Theft.

On or about 1<sup>st</sup> October 2007 at KOLOVAI you took without any colour of rights the following goods:

1 x black radio with 4 stereo speakers value \$1,000.  
1 x traditional twin mat (12' long) value \$400.  
1 x grey CD player \$300.

Worth a total value of approximately \$1,700 belonging to SOSINA MAKISI but is under the care of MAKELETA TAI with the intention to deprive her permanently of these goods and with the intention of converting these goods to your own use.

(4) Count 4 Housebreaking.

On or about 22<sup>nd</sup> October 2007 at 'AHAU you entered the dwelling house of LAISINI VUNA MAHE as a trespasser and committed a crime therein.

(5) Count 5 Theft.

On or about 22<sup>nd</sup> October 2007 at 'AHAU, you took without any colour of rights the following goods:

|                         |        |
|-------------------------|--------|
| 1 x fihu mat (12' long) | \$500. |
| 1 x kuta mat            | \$200. |
| 2 x white fine mats     | \$160. |
| 1 x black handbag       | \$20.  |

Worth a total of approximately \$880 all belonging to LAISINI VUNA MAHE with the intention to permanently deprive her of those goods and with the intention to convert those goods to your own use.

An undisputed statement of facts is as follows and I quote :

"On or about 23 September 2007, at 'Ahau, the accused Vāea Takai was working at the Liku'alofa Resort. He got off work at around 6:00 pm and he went to drink kava at 'Ahau. When the kava drinking session finished, the accused came and continued drinking liquor with others at Fo'ui.

After a while, the accused then went to Liku'alofa Bar to get more liquor and

cigarettes for the drinking party. When the accused arrived at the Liku'alofa Bar, he opened and took out the louvers and entered the bar. He then took some food items from the bar.

On or about 1 October 2007, at about 2:00 pm at 'Ahau, the accused Vaea Takai went to the home of Sosina Makisi which is under the care of Makeleta Tai. He entered through the fence from the Southern side of the house and then used a screw driver to force open the sliding door on the Southern side of the house. The accused then entered the house and took the good items listed under Count 4.

On or about 5 October 2007, the accused sold the good items for \$200.00 to a lady at the Talamahu Market. None of the goods were recovered except the black radio with 4 stereo speakers.

On or about 22 October 2007, Vaea Takai went to the complainant Laisini Vuna Mahe's house. He went around the kitchen, opened the window and entered the house. The accused took from the complainant's bedroom the good items listed under Count 5.

On the following day, the accused went to the market and sold the good items to one Lesila Vatikano for \$200.00."

These are serious offences of housebreaking and theft. They show that the accused is a continual offender in this case the offences occurred over a period of approximately 1 month.

The accused is not a first offender and appears to be an almost habitual offender.

In 2007 he received 5 months imprisonment for housebreaking which was suspended for 1 year plus he was fined \$500 compensation for theft.

In 2005 he received 2½ years for housebreaking and theft to serve 6 months.

In February 2008 at the Magistrates Court he received 6 months imprisonment for theft suspended for 18 months and 80 hours community service and 40 hours community service order for housebreaking. That is not strictly a prior conviction but it is an offence committed when on bail for these offences and shows that he is an incorrigible offender.

The accused is aged 32. His father is deceased and his mother lives in New Zealand. He married in 1995 and separated in 2004. There were no children. He had been working as a caretaker at LIKU'ALOFA resort at the time of the 1<sup>st</sup> offence.

He had in fact breached the suspended sentence (on the 4<sup>th</sup> March 2005) and he served that sentence which had been suspended.

There is little that can be said on the accused's favour. He seems to offend in order to obtain drink and goods which he then sells.

However he has pleaded guilty to the charges and that is deserving of a reduction in sentences, in my view of 25%.

His problem seems to be partly his drinking habits. He has attended or is attending the Salvation Army who report that he is making progress but that does not seem to have stopped his Re: offending.

The accused has been every chance in the past and has been treated with leniency but he has responded by re: offending. In the circumstances the time for leniency has past and the community needs to be protected from the accused and a deterrent sentence needs to be imposed.

Would you stand up please. For these offences you would have been imprisoned for 4 years. Due to your plea of guilty that is reduced to 3 years.

On each count the accused is sentenced to imprisonment for 3 years.

The sentences are to be served concurrently.

DATED: 29 April 2008



*[Handwritten signature]*  
JUDGE