

MOHAMMAD IZZAT BIN MOHD YUNUS

AND

PUBLIC PROSECUTOR

**(Court of Appeal of Brunei Darussalam)
(Criminal Motion No. 31 of 2019)**

Before: Burrell P, Seagroatt and Lunn JJ A.

14th November 2019

Headnote: Sentence – s.454 housebreaking. Occupants of the house disturbed by the intruders. Guilty plea. First offender. 33 months imprisonment and 2 strokes upheld.

Applicant in person

DPP Raihan Nabilah binti Ahmad Ghazali for Respondent

Cases cited in the judgment

Mohammad Yusrin bin Hj Mohammad and Public Prosecutor (Criminal Appeal No 8 of 2013)

Burrell, P.:

The applicant in this case was one of three defendants who first appeared in the Intermediate Court on 11th January 2017 charged with an offence contrary to s.454 of the Penal code committed on 14th December 2016. It was alleged that they had entered a private dwelling and stolen property including a laptop and some cash. They all pleaded not guilty and the matter was set down for trial. The trial concluded on 31st October 2018. The applicant was convicted by Judge Safiee who, on 3rd November 2018 passed a sentence of 33 months imprisonment and 2 strokes. The applicant now appeals against that sentence.

Notice of Appeal

The written notice of appeal was 9 ½ months out of time. In his written submission the applicant expresses remorse and regret for his wrongdoing. He informs the court about his family circumstances and seeks forgiveness and a reduction in sentence. The notice however is silent as to why it was filed over 9 months after the time limit had expired.

In court he has said that he was unaware of the appeal procedure. When he became aware of it he lodged his appeal.

We will consider the merits of the proposed appeal first of all.

The Facts

As found by the trial judge the applicant was one of three men who entered a private dwelling intending to steal. At the time a brother and sister, who were aged 15 and 17, were at home inside the premises when they realized that strangers had entered the property. They were not surprisingly very frightened. They called their mother by phone who soon arrived home. The arrival of her car caused the three men to run away. They took with them a laptop and cash.

Sentence

As was said in *Mohammad Yusrin bin Hj Mohammad and Public Prosecutor (Criminal Appeal No 8 of 2013)*:

“This court has said on many occasions that offences of trespass and theft from dwellings are serious. They cause immense distress to home owners who feel that their privacy and their property has been violated.”

In the present case there is the further aggravating factor that not only was the dwelling occupied at the time but also that the young occupants realized that their property was being broken into by strangers and could hear them going upstairs into the bedrooms.

Regrettably offences such as these are prevalent in Brunei. Consequently there is an abundance of authority in support of the sentence which was passed in this particular case. The fact that he was a first offender was properly noted.

There are no grounds to depart from the sentence passed. Absent exceptional circumstances those who break into people’s homes and disturb the occupants in order to steal their property must expect prison sentences in the region of 3 years at least.

As we find there to be no merit in the proposed appeal the application to appeal out of time is refused.

Burrell, P.

Seagroatt, J.A.

Lunn, J.A