

**IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU**

Criminal Case No.324 of 2002

SC No.22 of 2002

Judgment No.2 of 2003

(Criminal Jurisdiction)

**PUBLIC PROSECUTOR V. ROGER TOKON  
JEAN-YVES ETUL**

**Coram: Mr Justice Oliver A.Saksak  
Ms Cynthia Thomas – Clerk**

**Counsels: Ms Linnes Moli for Public Prosecutor  
Mr Hillary Toa for the Defendants.**

**Date of Plea: 20<sup>th</sup> November, 2002.**

**Date of Trial: 28<sup>th</sup> April, 2003.**

**Date of Sentence: 2<sup>nd</sup> May, 2003.**

**SENTENCE**

The Defendants were each charged with Unlawful Entry contrary to section 143 and with Theft contrary to section 125(a) of the Penal Code Act CAP.135.

On 20<sup>th</sup> November, 2002 both pleaded guilty to the charge of Unlawful Entry and denied the charge of Theft. They disputed the amount of money alleged to have been stolen by them at the Sanma Club. They indicated through counsel that they would only accept theft for the sum of VT136.000 and not VT181.000 as charged.

On 28<sup>th</sup> April 2003 when the matter was to proceed to trial the prosecutor sought leave to amend the second Count to reduce the amount alleged from VT181.000 to 136.000. Leave was granted and the Defendants were re-arraigned. They both pleaded guilty.

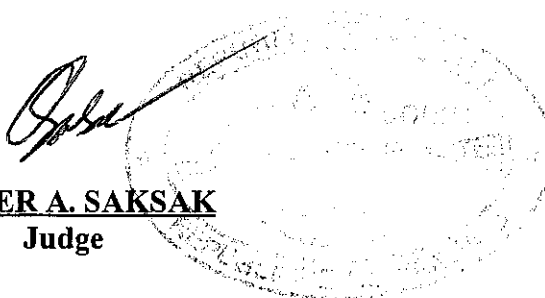
In sentencing the Defendants on 2<sup>nd</sup> May 2003 the Court took into account Roger Tokon's involvement in Criminal Case No.323 of 2002. He along with two other accomplices were charged with Unlawful Entry Theft and Damage to Property. These offences were Committed in the same month of August 2002. It appears to me that Roger Tokon has become a habitual offender. He should understand that unlawful entry and theft are very serious offences which carry heavy prison terms. A person who becomes habitual in committing the same offences and repeating them in the same month does not,deserve any leniency. The only penalty the Court will impose on Roger Tokon is a prison term. I consider the appropriate sentence in respect of the Unlawful Entry charge to be for a period of 11 months. These prison terms will run concurrently. In total, Roger Tokon will serve a prison term of 11 months.



Jean Yves Eutul appeared in Court in 1985 charged with Unlawful Entry (2 months imprisonment); Theft (2 months); Unlawful Entry (2 months); Theft (2 months); and malicious Damage (1 month). His sentences were made to run concurrently. That was about 18 years ago. He has not been in trouble with the law at anytime thereafter. But to reflect the seriousness of the offences for which he is charged, I consider that I should impose prison terms but have them suspended. Accordingly Jean Yves Eutul is sentenced 3 months imprisonment for Unlawful Entry, and to another 3 months for Theft. These terms will run concurrently. These terms are suspended for a period of 12 months or 1 year from the date of sentence.

**PUBLISHED at Luganville this 4<sup>th</sup> day of March, 2004.**

**BY THE COURT**

A handwritten signature in cursive script, appearing to read 'O. Saksak', is written over a circular embossed seal. The seal contains text that is mostly illegible but appears to include 'JUDICIAL OFFICE' and 'LUGANVILLE'.

**OLIVER A. SAKSAK**

**Judge**