

**IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU**  
*(Criminal Jurisdiction)*

Criminal Case No.80 of 2010

**PUBLIC PROSECUTOR**  
**-V-**  
**STEWART MCEWEN**

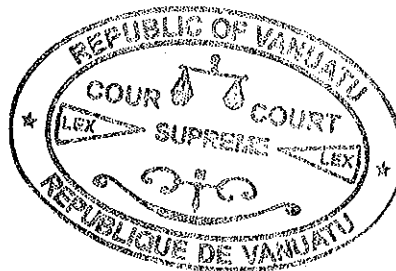
**Coram:** *Justice D. V. Fatiaki*

**Counsels:** *Mr. L. Malantugun for the State*  
*Mr. D. Thornburgh for the Defendant*

**Date of Sentence:** *9 September 2011*

**RULING ON BAIL**


1. The grant of bail pending appeal is not the same as an application for bail pending trial where the defendant has a presumption of innocence in his favour.
2. After a conviction the presumption, if one can call it that, is reversed and there is no longer a presumption of innocence. Indeed the position is that unless and until a conviction is set aside or quashed it remains valid for all intents and purposes including as some justification for the sentence imposed.
3. The law thus requires that exceptional circumstances be demonstrated before a convicted defendant may be released on bail pending appeal.



4. I have already described this case as "*peculiar*" and "*exceptional*" and in light of the Public Prosecutor apparent lack of opposition to the application and mindful of the authority of **PP v. Walker** [2007] VUSC 73, I am able to grant the application.
  
5. The defendant/appellant is accordingly granted bail pending appeal on the following conditions including the surrender of his passport and reporting once weekly to the Public Prosecutor's Office between 8.00 a.m. to 4.00 p.m. on Wednesday and on condition that his counsel ensure that the appeal is ready and listed for hearing at the November sessions of the Court of Appeal.

**DATED at Port Vila, this 9<sup>th</sup> day of September, 2011.**

**BY THE COURT**

  
**D. V. FATIAKI**  
Judge.

