

PUBLIC PROSECUTOR - v - SILAS ROBERT

Coram: *V. LunabeK CJ*

Counsel: *Ms Kayleen TAVOA, Public Prosecutor*
Mr Brian LIVO for the Defendant

SENTENCE

Accused Silas Robert you were charged with one Count of Unlawful Entry and one Count of Theft.

You have entered guilty pleas on the two counts on 5th February 2013.

A Pre-Sentence report was provided by the probation office on 15th February 2013.

Submissions hearing for your sentencing were scheduled on 20th February 2013 but you failed to attend the Supreme Court as ordered on 20th February 2013.

A Warrant of Arrest was issued against you for the police to arrest you and brought you before the Supreme Court in Port Vila on 22nd February 2013 at 2.00PM.

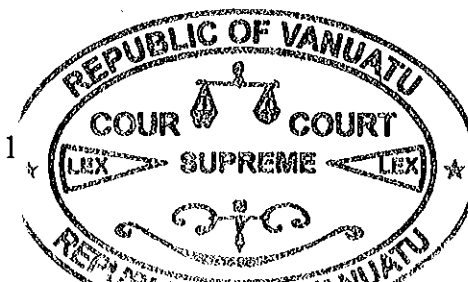
On 22nd February 2013 the Prosecution informed the Court that the Warrant of Arrest was not yet executed. Another Warrant was issued for the Police to arrest you and to keep you in custody and bring you before the Supreme Court in execution of this Warrant. It was an open Warrant of Arrest.

The Court has no information, thus, this conference today on 8th May 2013. This morning you appear in Court. Your sentencing is adjourned to this afternoon at 4.00pm o'clock.

The brief facts of your offending are provided by the Prosecution. You accepted these facts on 5th February 2013 when you entered guilty pleas on both counts you were charged with. Your lawyer also accepted these facts on your behalf.

These facts are summarised as follows :

On the 14th of September 2012, your wife made a statement to the police asserting that sometimes in August 2012, you informed her of your intention to steal some of the belongings of your employer (Mr. George Bai) who is the complainant in the present case.



And sometime between 1st September 2012 and 5th September 2012, you unlawfully entered the house of the complainant at the Prima Area and stole item such as a secular saw.

On the 14th September 2012, the police were able to recover the secular saw that ended up in the hand of another person named Erick rather than you.

You along with others were apprehended and brought to the police headquarters for caution and interview on 25th September 2012.

On that date, the other defendants have denied the allegations put against them by the police and only you Silas Robert admitted that you have done so.

Apart from secular saw, there are other items stolen but you said you only stole the secular saw. The Court accepts that and the Court will sentence you on these Facts.

The law prohibits a person from entering unlawfully into a house, building, tent, vessel or other place with intent to commit an offence there in (s.143(1)). Unlawful entries carries a maximum penalty of imprisonment for 20 years where the place is used for human habitation; and imprisonment for 10 years if the place is not used for human habitation. In this case, you have unlawfully entered into a place which is not for human habitation. Unlawful entry is a serious offence as reflected in the heavy penalty imposed by law.

The law prohibits also a person from stealing something (a property) belonging to another person. The law punishes the offence of theft with a maximum penalty of imprisonment for 12 years. This offence also is a serious offence.

In the present case, the seriousness of your offending sometime in September 2012, is aggravated by the following factors:

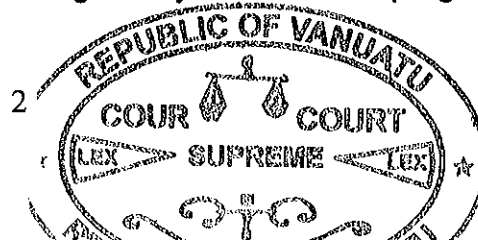
1. You have breached the trust between you (employee) and Mr Bai George (employer)
2. You have broken the lock of the door
3. You forced the door open

I sentence you to 24 months imprisonment on each of the two counts as a starting point.

The pre-sentence report indicates that you are 27 years old. You came from Malvasi Village on Epi Island. You are an ordinary member of your community. You attended your church services (Assemblies of God) and participated to the church activities with the youth members.

Your ambition is to set up your own construction company. You works for Bai George and he paid you Vatu 5,000 every month. Your salary for the last two (2) months were reduced down to VT 2,000.

You are married and your wife is pregnant. You said you confronted your employer concerning your salaries by stating how your wife was pregnant but it was futile.



You then decided to enter unlawfully into your employer's house and you steal the property (secular saw). It was recovered by the Police through a third party.

Your explanation of your offending is because of your families. I do not accept your explanation. If you are not happy with the amount of Vatu you received from your employer every month, you should bring your employer to the relevant authorities or find alternative employment but you cannot offend in the way you did in this case. Your action is not acceptable.

In mitigation, I take into account what your lawyer says in his submissions on your behalf. I read the report and consider what is appropriate for your sentencing. I consider that you are a first time offender and you do not have previous convictions. I consider that you are ashamed of your behaviour and felt sorry for what you did.

I take it to be an insight into your offending. You seem motivated to address your offending behaviour. I consider also that you have made custom reconciliation to the victim complainant.

I reduce your sentence to 18 months for your guilty pleas and 3 other months allowances for the other mitigating factors.

You receive an end sentence of 25 months imprisonment on each count concurrently. The next question is whether or not to suspend it.

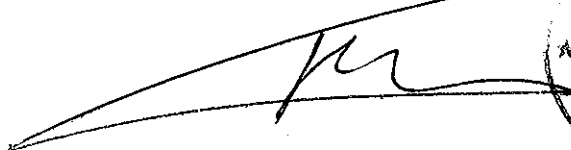
I decline to suspend it wholly. You will serve one part of imprisonment sentence with immediate effect and the balance will be suspended. You are ordered to serve a term of 9 months imprisonment with immediate effect. The balance of the 15 months is to be suspended for a period of 2 years.

ORDER

1. You are sentenced for 15 months imprisonment on each count concurrent which is partly suspended.
2. You are ordered to serve 9 months imprisonment with immediate effect.
3. The balance of 15 months imprisonment is suspended for a period of 2 years
4. If you are not happy with your sentence, you have 14 days to your appeal right starts today.

DATED at Port-Vila this 10th day of May 2013

BY THE COURT



**Vincent LUNABEK
Chief Justice**

