

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

Criminal Case No: 20 of 2015

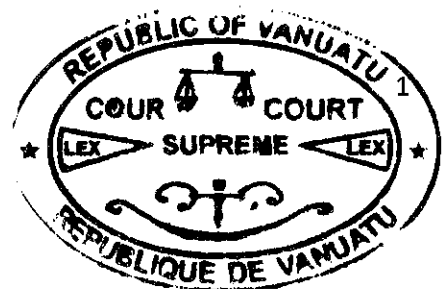
## PUBLIC PROSECUTOR VS LEO HERON

Coram: Justice Dudley Aru

Counsel: Mr Ken Massing for Public Prosecutor  
Ms Jane Tari for the Defendant

### SENTENCE

1. Leo Heron you were charged with one count of arson contrary to section 134 (1) of the Penal Code [CAP 135] . On 14 April 2015 you entered a guilty plea to the charge and you were convicted accordingly . You are here today to receive your sentence.
2. The brief facts as accepted by defence counsel on your behalf are that the offence occurred in Big Bay , Santo on 24 December 2014. At that time three boys namely Fabrice, Kore and Ari were with you looking for your cattle in the complainant's plantation. You allege that the complainant had cut the ropes securing your cattle and they went astray. Whilst in the plantation you saw the complainant's copra drier with fire drying the copra. You then set fire to the roof of the copra drier which was made of natangura leaves. The copra drier was



burnt down to the ground with two tons of dried copra. Also destroyed was a cooking pot .

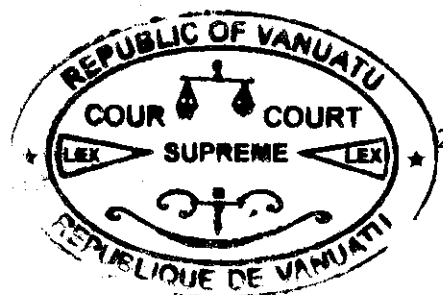
3. When you were cautioned by the Police you admitted the allegations .

4. I extract your personal details from your presentence report as follows :

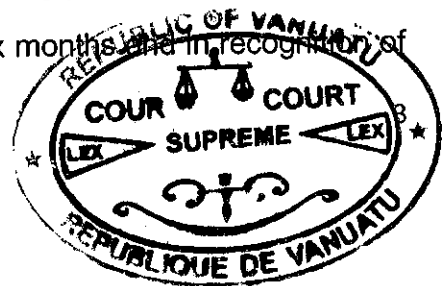
- You are from Malau Village in Big bay area and you are a first time offender;
- You are single and in your late twenties and you come from a family of 11 children and you are the fifth child;
- You earn your living by gardening and rearing cattle ;
- You are a member of the Seventh Day Adventist Church;

5. Your offending arises as a result of a land dispute as you told your probation officer that the complainant planted new coconuts on your land and despite your father advising him to stop the complainant did not stop . As a result you cut the newly planted coconuts and the complainant reacted by cutting loose your cattle . After you burnt the complainant's copra drier he burnt your dwelling house .

6. Your probation officer reports that you performed a custom 'Klinim fes' to the complainant by exchanging VT 10,000. The Compensation report states that you are willing to pay compensation to the complainant in the sum of VT 5,000 a month from the assets you have which are some 20 heads of cattle valued at VT10,000 each making a total of VT 200,000.



7. The following cases have been referred to me for consideration: *Worahese v Public Prosecutor* [2010] 11 VUCA ; *Public Prosecutor v Hugo* [2011] VUSC 310; *Public Prosecutor v Tabi* [2006] VUSC 51 and *Public Prosecutor v Alsik Makmue* [2011] VUSC 232. The circumstances of this current case are such that the offending arises from a land dispute between the defendant and the complainant which remains unresolved. Secondly, the complainant in retaliation for the loss of his copra drier also burnt the defendant's dwelling house with all its contents .
8. What you did is wrong . It is against the law to set fire to property that you know belongs to someone else. If you had suffered as a result of some criminal conduct , your duty is to report the matter to the police but not to take the law into your hands .
9. Your offending is aggravated by the fact that the complainant suffered loss of his copra drier and the copra he was drying at the time of the fire although the value is not known. The following factors are taken into account as mitigation:
- You are a first time offender;
  - You pleaded guilty at the first opportunity;
  - You also suffered loss of your dwelling house;
  - You performed 'kilinim fes' with the complainant
10. The starting point of your sentence is 2 years imprisonment which is uplifted to 3 years after taking account of the aggravating factors. For your early guilty plea your sentence is discounted by one third (1/3) reducing your sentence to 2 years imprisonment. As a first time offender I deduct of six months and in recognition of



your reconciliation with the complainant, a further six months is deducted leaving with you an end sentence of 1 year imprisonment. This is also suspended for a period of two years. Should you reoffend during this two year period then you will serve the full term of your sentence in custody.

11. Considering the unique circumstances of this case I do not make any orders for compensation.

12. You have 14 days to appeal this decision if you are not happy with it.

DATED at Luganville this 24<sup>th</sup> day of April 2015

BY THE COURT

DUDLEY ARU

Judge.

