

PUBLIC PROSECUTOR VS. SIMEON KOR

Coram: Justice Chetwynd

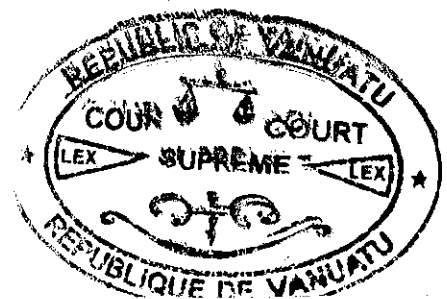
*Counsel: Mr Damien Boe for Public Prosecutor
Mr Junior Garae for Defendant*

Date of Hearing: 12th September 2017 at 9:00am

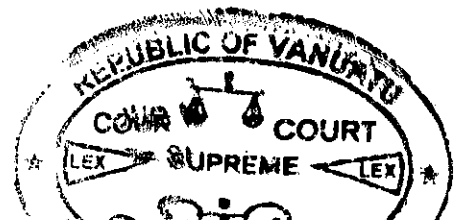
Date of Sentence: 15th September 2017 at 9:00am

SENTENCE

1. I have read the submissions of the prosecution and defence counsel. I also have a very helpful pre-sentence report from probation service.
2. The Defendant has pleaded guilty to an offence of aiding and abetting Willie Tavdey to obtain money by deception. The Defendant's punishment must reflect the fact he is charged and convicted of aiding and abetting an offence of obtaining money by deception.
3. The offending took place in 2013. It would appear the Defendant got to know his co-accused William Tavdey. He was convinced by Mr Tavdey that he could become involved in a lucrative investment scheme. Tavdey was a con-man and of course there was no investment scheme, lucrative or otherwise. However the Defendant was so gullible that he not only used someone else's money but having done that he convinced his colleague to "invest" more money.
4. The co-accused Tavdey was convicted of 4 counts of obtaining money by deception and the sum involved totalled some VT2,620,000. The Defendant has accepted his culpability in the deception involving his colleague Mr Lava and a sum of VT419,000.



5. Tavdey had a record of this type of offence, he is a professional con-man, the Defendant is not. Tavdey received a sentence of 3 years and 9 months following an appeal against sentence. This took into account Tavdey's record with some 15 convictions stretching over 13 years. Tavdey was also involved in 4 offences. Ignoring the previous convictions the Court of Appeal said Tavdey's offending warranted 4 years imprisonment. Given the Defendants lesser role in the deception he should receive a sentence of 2 years imprisonment. There are no aggravating factors although it should be mentioned that he betrayed the trust a close colleague had placed in him.
6. In mitigation it is clear the Defendant is very remorseful. He has apologised to his colleague and has started to pay back the money his colleague lost. He started doing that in 2015 and so far I accept he has re-paid VT225,000.
7. The Defendant has no previous convictions and is said to be a valued member of the community. He is 57 years old and a teacher of religious education. He is in reasonably good health.
8. Taking those matters into account his sentence will be reduced by 9 months leaving a balance of 15 months.
9. He has entered and maintained his plea of guilty from the start. He was co-operative with the police in their investigation as well. He is entitled to a reduction of 1/3 to his sentence. That leaves a balance of 10 months left to serve.
10. I have considered whether the sentence should be suspended. Looking at the nature of the crime, the circumstances and the character of the Defendant I see a gullible fool who was taken in by a practised con-man. He was not motivated by self-gain and did not benefit personally for the crime. In fact it is even possible he wanted, others to benefit from a "lucrative" investment scheme rather than rob them of their hard earned cash. As such I am satisfied it is appropriate to suspend the sentence. The sentence of 10 months imprisonment will be suspended for 2 years.
11. The Defendant is to re-pay the balance owed to Mr Lava by the end of the year. The balance is VT194,000 so that means the Defendant is faced with paying



approximately VT65.000 a month. He should discuss payment with Mr Lava and if the latter agrees to accept less per month then all well and good.


12. I do have some concerns that money the Defendant has paid in compensation has not yet reached Mr Lava. Whilst I appreciate the assistance of the Police in effecting repayment it is better if arrangements are made through the Courts. I am reasonably sure this can be done even if proceedings have not been complied.

13. I will also order the Defendant to carry out 100 hours of unpaid work for the community. He should report to the probation officer so that this can be arranged.

14. If the Defendant is unhappy about this sentence he has 14 days in which to appeal.

DATED at Luganville Santo, this 15th day of September, 2017.

BY THE COURT


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D. CHETWYNI
Judge

