

PUBLIC PROSECUTOR VS. SYLVIAN BULEWAK

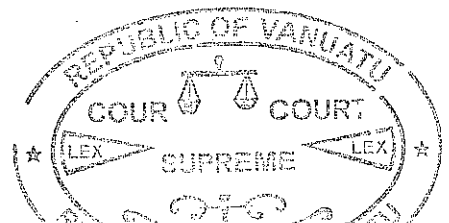
Coram: *Justice Chetwynd*

Counsel: *Mr Blessing for Public Prosecutor*
Mr Molbaleh for Defendant

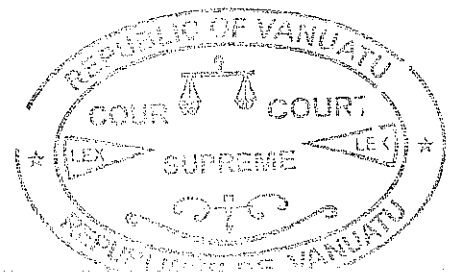
Date of Hearing: *3rd October 2017 at 9:00am*

SENTENCE

1. I have read and heard the submissions of prosecution and defence counsel. I also have a very helpful pre-sentence report from the probation service.
2. The Defendant has entered pleas of guilty to 4 counts involving forgery and deception in respect of VT830,000 obtained from the National Bank of Vanuatu. The money was taken by the unsophisticated deception and forgery of simply altering a figure in the Defendant's bank book or pass book. The Defendant took advantage of the lack of technical resources in rural branches of the bank. After acquiring the money the Defendant used it to purchase various goods and he also seems to have given some to friends.
3. The offences occurred in 2012. There is no real explanation as to why it has taken the case 5 years to get to court but there is no real suggestion that this was the Defendant's fault. Committal following PI was not until November 2016.
4. Although the defendant committed the offence in two basic tranches I proposed to pass concurrent rather than consecutive sentences. The starting point for any sentence involving forgery and deception of this type and on this scale is 3 years imprisonment. There is nothing in particular which aggravates the offending except, as mentioned already, there were two distinct occasions when the offences were committed.



5. The Defendant has entered guilty pleas at an early stage in the proceedings. The PI papers confirm that when he was interviewed about the matter he admitted what he had done and cooperated with the police. Items that he had purchased with the proceeds of the crime were retrieved by the police at an early stage of the investigation. Those items appear to have been handed to the bank. In the circumstances I accept that the defendant is entitled to a full one third deduction from his sentence. The balance is two years.
6. By way of further mitigation the Defendant has no previous convictions and is also entitled to be given credit for his past good character. His sentence will be reduced by a further 6 months. That leaves a balance of 18 months.
7. I also take into account the lengthy delay in bringing the case to court. As indicated the Defendant is not responsible for the delay, he has not absconded or failed to appear in Court, there has been a set of unfortunate circumstances which has led to delay. There could have been even further delay had not the Defendant agreed to come to Port Vila from his home on Pentecost to be dealt with. The Defendant is entitled to have a further 9 months deducted from his sentence to take the unfortunate delay into account.
8. The final sentence is one 9 months imprisonment. As indicated earlier the Defendant is sentenced to 9 months imprisonment on each of the four charges and those sentences will be served concurrently.
9. I have considered the reports and submissions available and I am prepared to suspend the sentences. I take into account the circumstances, in particular the length of time this case has been hanging over the Defendant and the fact that during that time there has been no further offending by him; the lack of sophistication involved in the crime, and the character of the Defendant. He has shown remorse and had accepted his culpability. The sentences of 9 months imprisonment will be suspended for 3 years.
10. As I explained to the Defendant in Court, the effect of suspending the sentence is that if he commits no further offences within a three year period from today then he would

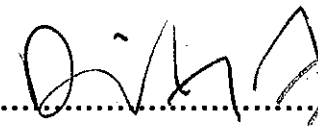


not have to serve any part of his sentence. However, if he did commit further offences then he would be taken into custody to serve the balance of 9 months.

11. I also make a restitution order pursuant to section 58ZD of the Penal Code [Cap 135]. The Defendant must pay to the National Bank of Vanuatu the sum of VT830,000 by the third anniversary of this sentence (i.e. 3rd October 2020). As I pointed out to the Defendant, if he does not make payment within the time specified then he will be liable to a further penalty under section 58ZD (2). This further penalty will be in addition to and not part of the 9 months of suspended imprisonment set out above. I understand from the Pre-Sentence Report the Defendant hopes to plant kava and raise sufficient cash to pay the bank that way. I did caution him and said that if it looked as if restitution would not be completed in time then he should speak to the Bank and ask for more time. If he simply did nothing he would be in danger of being taken into custody without further ado.
12. Finally, I should tell the Defendant if he is unhappy about this sentence he has 14 days in which to appeal.

DATED at Port Vila, this 3rd day of October, 2017.

BY THE COURT


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D. CHETWYND
Judge

