

PUBLIC PROSECUTOR

V

SANDY KALO MAKAU

DEXTER TEVI

TOMMY WILLIE

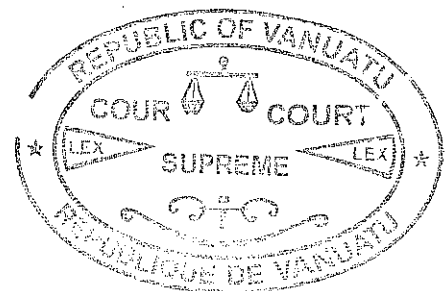
Date of Sentence: 12th day of December, 2017 at 9:00 AM

Before: David Chetwynd

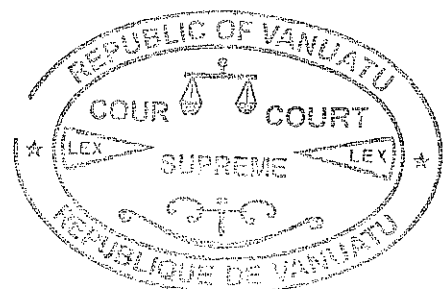
*Counsel: Mr Simcha Blessing for Public Prosecutor
Mr Lorenzo Moli for Defendants*

SENTENCE

1. The defendants Tommy Willie, Sandy Kalo and Dexter Tevi appear today for sentence. They each have entered a guilty plea to a charge of theft. The facts are quite simple. All three men worked for Stanley Fung. He owned a shop named Fung Kwan Chee. He sold general merchandise.
2. Mr Fung began to notice discrepancies in his stock. There were a substantial number of knives unaccounted for. He confronted Mr Kalo and Mr Willie. When the Police were then involved all three defendants admitted they had been involved in the theft of knives. They had sold the knives on to a third party.
3. The thefts were not very sophisticated but did involve some pre-planning. The thefts were easy to arrange because Mr Fung trusted his employees. The thefts had been going on for some time.



4. As to the individual Defendants, Sandy Kalo Makau is aged 48 years. He does not have any previous conviction. He told the probation officer he was sorry for what he did. He is currently unemployed.
5. Mr Dexter Tevi is 33 years of age. He too has no previous convictions. He is no longer in work except he does sell Taro and Kava from his home island of Pentecost and earns commission from the farmers he sells the produce for. Mr Tevi said he felt guilty about his offending.
6. Mr Tommy Willie is from Emae Island. He is 29 years old. He is working for a construction company at the moment. He told the Probation Officer he was very sorry for what he did and was ashamed because his employer had treated him with kindness and trust.
7. All three defendants acted in a manner where they betrayed the trust placed in them by Mr Fung. There was an element of planning involved in the offending and they had all repeatedly stolen from these employer. The total amount lost by the employer was in the region of VT2,000,000.
8. I will treat all 3 the same way given the nature of the offending described about the Defendants face a starting point of 3 years imprisonment.
9. For their previous good character, and the remorse they feel they are entitled to a year's deduction. That leaves 2 years. They have entered pleas of guilty at a very early stage in the proceedings and are entitled to a full 1/3 deduction. That leaves 16 months.
10. I am required to consider two issues when sentencing. First, the issue of compensation (section 40 of the Penal Code [Cap 135]). Secondly, whether the Defendants or any of them can be kept in the community.
11. So far as compensation is concerned, the defendants are not in a position when there they can pay compensation. They have basically frittered away the money obtained from their offending and two at least have limited income. I do not consider it practical to order a sentence of compensation.




However, as I told the defendants in Court there is nothing to prevent them making their own arrangement with Mr Fung.

12. These defendants do not pose any threat to the community. In the circumstances I am prepared to suspend their sentences. The 16 months imprisonment will be suspended for a period of two years. Each defendant will do 100 hours unpaid work for the community. They will also be supervised for 12 months by the Probation Service. This is as much to help them as to keep an eye on them.
13. As explained to the defendants, this means they do not get sent to prison immediately. If they behave and commit no further offences in the next two years they will not serve any time in prison. If they do offend within the two years they will have to serve 16 months imprisonment as well as any other sentence imposed for the new offence.
14. The defendants have the right to appeal this sentence if they are unhappy about it. They have 14 days in which to do so, with time starting to run when they obtain a copy of these written reasons from their counsel.

DATED at Port Vila this 12th day of December, 2017.

BY THE COURT


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David Chetwynd
Judge

