

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

Criminal
Case No. 22/1462 SC/CRML

PUBLIC PROSECUTOR

v

JOSHUA KILITER

Date: 13 December 2022
Before: Justice V.M. Trief
In Attendance: Public Prosecutor – Ms L. Lunabek
Defendant – Ms A. Sarisets

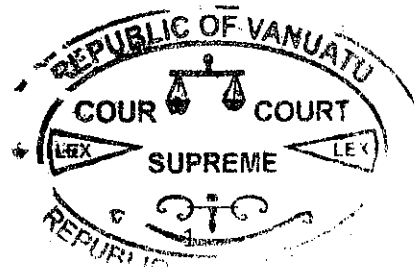
SENTENCE

A. Introduction

1. The Defendant Joshua Kiliter pleaded guilty to theft (Charge 2). He is convicted on his own plea and the admitted facts.

B. Facts

2. On various occasions between 5-12 February 2022, the other Defendants Mr Cheval, Mr Kara, Mr Namatak and Mr Tom entered Christopher Bartlett's house at Malapoa Estate with intent to commit an offence (Charge 1). Mr Bartlett was away on Santo for work. He returned to Vila on 13 February 2022.
3. Mr Kiliter and another Defendant Mr Maki joined the other Defendants and between the 6 of them, they took and carried away items worth over VT460,000 including the following (Charge 2):
 - a. HP laptop Spectre 360 – VT170,000;
 - b. Bose Bluetooth Sound Link and black speaker – VT38,000;
 - c. Bose Bluetooth Sound Touch 10 Speaker white – VT45,000;
 - d. Spy Glass Binoculars Swiss Army – VT12,900;



- e. 5 diving masks – VT17,000;
 - f. Husqvana grass cutter – VT78,000;
 - g. Stihl chainsaw (small) – VT40,000;
 - h. Brown towel (large) – VT6,000;
 - i. Canon Pixma M62560 printer – VT7,500;
 - j. 3 bush knives – VT6,000;
 - k. 5 boat flares – VT5,000;
 - l. Crowbar – VT5,000;
 - m. Underwater camera – VT10,000;
 - n. Hair clippers black (Twelveling hard plastic box case) – VT7,500;
 - o. 2 white double plugs – VT1,000;
 - p. 1 20metre yellow extension cable – VT3,000;
 - q. 1 5meter white extension cable – VT1,000;
 - r. Small black torch with alarm panic button – VT4,000;
 - s. 5 t-shirts and 5 short trousers – VT10,000; and
 - t. Tinned food, pens, mushrooms, vegetables, tomatoes – VT2,000.
4. Subsequently, items including the Bose speakers, 3 diving masks, Stihl chainsaw, the Canon printer, double plugs, black torch, towel and 2 boat flares (worth VT150,000) were recovered and returned to Mr Bartlett.

C. Sentence Start Point

5. The sentence start point is assessed having regard to the maximum sentences available, and the mitigating and aggravating factors of the offending.
6. The maximum sentence prescribed in the *Penal Code* [CAP. 135] for theft is 12 years imprisonment (s. 125(a)).
7. The mitigating factor is that some of the stolen goods were returned to Mr Bartlett.
8. The offending is aggravated by:
- The offending occurred at night time;
 - There was some planning involved;
 - The repeat nature of the offending over a short time span; and
 - The loss suffered with no prospect of reparation or return of the bulk of the stolen property.



9. The factors set out above require a sentence start point of 3 years imprisonment.

D. Mitigation

10. Mr Kiliter pleaded guilty at the first opportunity. Accordingly, one third is deducted from the sentence start point.

11. Mr Kiliter is 18 years old. He lives with his parents. He has no previous convictions.

12. He expressed his remorse for the offending to the pre-sentence report writer. He is willing to perform custom reconciliation ceremony with the complainant.

13. He has good community support from his chief and family.

14. A further 6 months is deducted for Mr Kiliter's personal factors including his youth and immaturity.

E. End Sentence

15. Taking all matters into account, the end sentence imposed is 1 year 6 months imprisonment (Charge 2).

F. Suspension of Sentence

16. The offending was serious. On the other hand, Mr Kiliter's prompt guilty plea, lack of previous convictions, family and community support, and youth and immaturity count in favour of suspension of sentence. I consider his chances of rehabilitation are better served by keeping him out of custody therefore suspend his sentence for 2 years.

17. Mr Kiliter is warned that if he offends again within the next 2 years, he will need to serve the sentence imposed today in addition to any other penalty that may be imposed on him for the further offending.

18. In addition, Mr Kiliter is to complete 40 hours of community work.

19. Mr Kiliter has 14 days to appeal.

**DATED at Port Vila this 13th day of December 2022
BY THE COURT**

Justice Viran Molisa Trief

