

PUBLIC PROSECUTOR

v

JONAS LES, MOL MICHEAL LES, HARRIS LES,
JOHN BONG, ASIK TAL, KILVAN LES,
JOHNNY BONG RAVINO LES

Defendants

Coram: *Justice Oliver A. Saksak*

Counsel: *Ms Laura Lunabek for Public Prosecutor*
Mr Steven Garae for Defendant

Dates of Plea: *15th July 2024*

Date of Sentence: *23rd July 2024*

SENTENCE

1. On 15th July 2024 Jonas Les pleaded guilty to one charge of complicity to theft, sections 30 and 125 (a) PCA (Count 1). The other 7 defendants namely Mol Mikael Les, Harris Les, John Bong, Asik Tal, Kilvan Les, Johnny Bong and Ravino Les pleaded guilty to one charge of theft, section 125 (a) PCA, (Count 2). And they are all for sentence today.
2. The Court convicts and sentences all the 8 defendants on their own guilty pleas.
3. The 7 defendants acted on the advice and counsel of their Chief Johnas Les. From January 2023 to April 2024 the defendants had killed over 50 heads of cattle comprised of 14 breeding bulls, 20 steers and 16 breeding cows belonging to a cattle farm owned by the late Kuvu Noel. In March 2024 the farm Manager Angeline Noel drove to the farm and met defendant Harris Les and the other people by the side of the road cutting up meat. When she asked them whose cattle it was, the boys

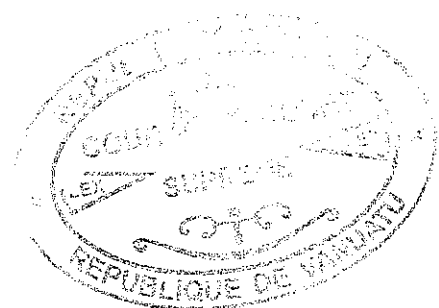


ran away. She then found out the dead cattle belonged to the farm. A complaint was made to the Police who went to arrest the defendants and found 5 cows stolen from the farm at the defendant's house. On 16 January 2024 the defendants followed their chief's advice and went to the farm, took a cow, killed it and brought the meat home.

4. The Police interviewed the defendants under caution on 24 April 2024 about the thefts of all the cattle. They all admitted they followed their chief's advices to go and take cattle from the farm and killed them and brought the meat back home for consumption.
5. There was no mitigating circumstances. Just because the chief said so, was no excuse or justifiable reason to go to a farm the defendant knew was not theirs and steal cattle that did not belong to them. It did not matter if the cattle had trespassed and damaged their gardens, they or their chief should have approached the farm Manager and reported the damages caused giving them prior warning to repair fences and keep the cattle from further trespassing. Better still make complaints to the Police. It appears none of that happened. They simply took the law into their own hands and shifting the blame to their chief. The chief himself should have known better but instead advised the defendants to break the law.
6. Their actions therefore warrant the imposition of custodial sentences to serve as a deterrence, to mark the seriousness of their offendings, to mark public disapproval of their unlawful acts, to protect property and to punish the defendants adequately.
7. The offence of theft under section 125 (a) PCA carries the maximum penalty of 12 years imprisonment. And complicity is punishable in the same manner.
8. I have been referred to some Supreme Court cases in the submissions by Mr Garae such as Heromanley v PP [2010] VUCA 25, Robert v PP [2013] VUCA 25, and Rony v PP [2017] VUCA 23 and PP v filai [2020] VUSC 164. Those cases involved unlawful entry into dwelling houses and theft which are different on their facts and circumstances from this case. This case involves the defendants acting on the advice of their chief which advice in itself is or was unlawful.



9. I have on the other hand seen the cases referred to by Prosecutions such as PP v James [2002] VUSC 77 and PP v Makau [2017] VUSC 199. These cases also are different on their facts and circumstances.
10. I therefore sentence the defendants as follows-
- a) For Count 1, complicity to theft- Johnna Les is sentenced to 2 years imprisonment.
 - b) For Count 2, theft- Mol Mikael Les, Harris Les, John Bong, Asik Tal, Kilvan Les, Johnny Bong and Ravino Les are each sentenced to 2 years imprisonment.
11. In mitigation, I reduce Johna Les sentence by 1/3 leaving the balance to be 16 months. For clean past record and other factors personal to him including the period of 51 days he spent in custody, I reduce his sentence by a further 2 months. His balance of the sentence is 14 months. His balance of the sentence is 14 months imprisonment.
12. For defendants Mol Miskael Las, Hams Les, John Bong and Asik I reduce your sentences by 1/3 down to 16 months. I further reduce the sentence by a further 4 months for clean past record, other factors personal to them and 51 days spent in custody on remand, their balance and end sentence shall be 12 months imprisonment.
13. For Kilvan Les, Johnny Bong and Ravino Less I reduce your sentences by 1/3 down to 16 months. I further reduce it by 4 months for clean past record, other factors personal to them and the 45 days they spent in custody on remand. Their end sentences shall also be 12 months imprisonment.
14. I consider that the circumstances, nature of offendings and characters of the defendants warrant that their sentences should be suspended and I so order their sentences are all suspended under section 57 of the PCA (Cap 135) on good behaviour for a period of 2 years from the date of this sentence. That means the defendants do not have to go to prison today. They will remain in the community but they must commit any other offences for which they would be charged and convicted. If they do, they will each go to prison to serve their respective sentences as imposed.



15. Finally I consider that additional sentences of community work should be imposed. I therefore order that Johnas Les be sentenced to 100 hours of community work to be completed within 12 months from the date hereof.
16. For Mol Mikael Les, Haris Les, John Bong, Asik Tal, Kilvan Les, Johnny Bong and Ravino Less, they are each sentenced to 50 hours of community work to be completed within 12 months from the date hereof.
17. All the defendants are required to report to the Probation Service immediately and not more than 72 hours from the date of sentence for further instructions.
18. That is the sentence of the Court for the defendants. They have 14 days right of appeal against sentence if they so choose.

DATED at Luganville this 23rd day of July 2024

BY THE COURT


Hon. OLIVER A SAKSAK

Judge

