

PUBLIC PROSECUTOR
v
ANTONIO JEAN LUK BOB

Date: 8 October 2024
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr C. Shem
Defendant – Mr P. Fiuka

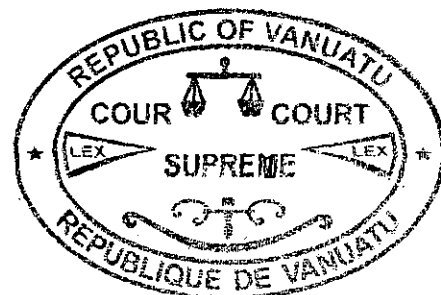
SENTENCE

A. Introduction

1. Mr Antonio Jean Luk Bob, you appear for sentence having pleaded guilty to the following charges:
 - a) Unlawfully entering a dwelling house contrary to subs. 143(1) of the *Penal Code* [CAP. 135] (Charge 1); and
 - b) Theft contrary to subs. 122(1) and para. 125(a) of the *Penal Code* (Charge 2).
2. You are convicted on those charges on your own pleas and the admitted facts.

B. Facts

3. On 31 August 2017 at Imaki on Tanna, you entered the house of Augustine Leon with intent to commit an offence there. You were under the influence of alcohol (Charge 1). Without Mr Leon's consent and without a claim of right, you took and carried away VT350,000 cash with intent to permanently deprive Mr Leon of that money, thereby causing loss to him (Charge 2).

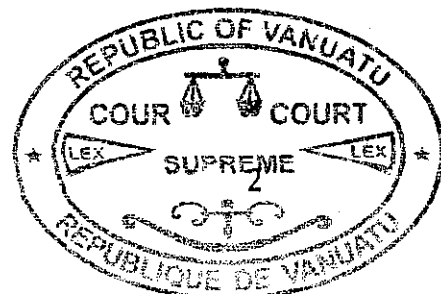


C. Sentence Start Point

4. The sentence start point is assessed having regard to the maximum sentences available, and the mitigating and aggravating factors of the offending.
5. The maximum sentences prescribed in the *Penal Code* are:
 - a) Unlawful entry of dwelling house – 20 years imprisonment (subs. 143(1); and
 - b) Theft – 12 years imprisonment (subs. 122(1) & para 125(a)).
6. There are no mitigating aspects of the offending. The fact that you were intoxicated is not a mitigating factor. It does not and cannot mitigate your actions.
7. The aggravating factors of the offending are as follows:
 - The offending was committed under intoxication; and
 - The substantial loss caused to the complainant with no prospect of reparation.
8. Both your pre-sentence report and your counsel stated that you had returned some of the money stolen to the complainant Mr Leon. Your counsel also submitted that you had offered to reimburse the full amount to the complainant. However, it has been 7 years since the offending therefore you have already had ample time to reimburse him. I consider therefore that there is no prospect of reparation.
9. Your counsel also submitted that the only sentence applicable is community work. I disagree. The unlawful entry of a dwelling house and the substantial amount of money stolen warrant an imprisonment sentence.
10. The factors set out above require a global sentence start point of 3 years imprisonment.

D. Personal Factors

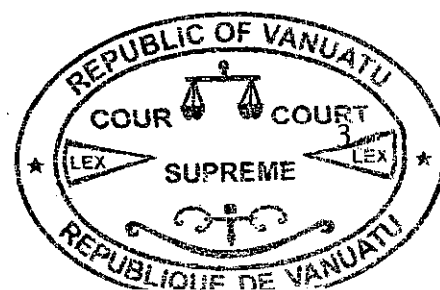
11. You pleaded guilty at the first reasonable opportunity for which one third is deducted from the sentence start point.
12. You are now 30 years old. You committed the offending when you were 23 years old. You have a son with your *de facto* partner. You are self-employed in a kava business with your older brother Bruno.



13. You have prior convictions from 2023 for criminal trespass and intentional assault, for which you were sentenced to 40 hours of community work which you have completed. The offending in the present matter occurred first in time to the offending that you were convicted of in 2023 however the delay in prosecuting you is not attributable to you. The Police file was registered in 2017 but the prosecution did not commence until 2021. You were not responsible for that 4-year delay. I therefore do not add any uplift for your prior convictions but deduct 6 months from the sentence start point for your personal factors including the delay in referring this matter to the Court and your youth and immaturity at the time of the offending.


E. End Sentence

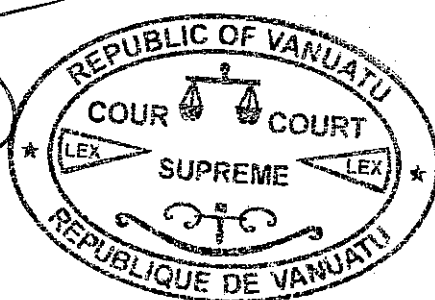
14. The applicable sentencing principles are to hold you accountable and to denounce and express public disapproval of your conduct. The sentence is also to deter you and others from such offending, to ensure you take responsibility for your actions and help you to rehabilitate.
15. Taking all matters into account, the following end sentences are imposed concurrently:
- i) Unlawful entry of dwelling house (Charge 1)
1 year 6 months imprisonment; and
 - ii) Theft (Charge 2) 1 year 6 months imprisonment.
16. The Court has a discretion under s. 57 of the *Penal Code* to suspend the sentences. I must take into account the circumstances, the nature of the offending and your character.
17. This was serious offending. However, I take into account your youth and immaturity at the time of the offending, and that at that point 7 years ago, you had a clean record. Mr Fiuka submitted that you committed the offending which resulted in your criminal convictions in 2023 on the orders of the community and chiefs. I also take into account that you returned to the complainant part of the money that you stole and that you do not have prior convictions for theft. You also pleaded guilty at the first reasonable opportunity that you had. I take into account that your prospects of rehabilitation are better served by keeping you out of an immediate sentence of imprisonment.
18. On balance, I consider that it is appropriate to suspend the sentences for 2 years. You are warned that if you are convicted of any offence during that 2-year period, that you will be taken into custody and serve these sentences of imprisonment, in addition to any other penalty that may be imposed for the further offending.



19. In addition, you are to complete 100 hours of community work.
20. You have 14 days to appeal the sentence.

**DATED at Port Vila this 8th day of October 2024
BY THE COURT**


Justice Viran Molisa Trief



The seal of the Supreme Court of Vanuatu is circular. The outer ring contains the text "REPUBLIC OF VANUATU" at the top and "REPUBLIQUE DE VANUATU" at the bottom. Inside the ring, the words "COUR" and "COURT" are positioned on either side of a central scale of justice. Below the scales, the word "SUPREME" is written in a larger font. Two small triangles containing the word "LEX" are placed on either side of "SUPREME". The seal is flanked by two small stars.