

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

Cr. Case No. 290 of 2015

PUBLIC PROSECUTOR

-v-

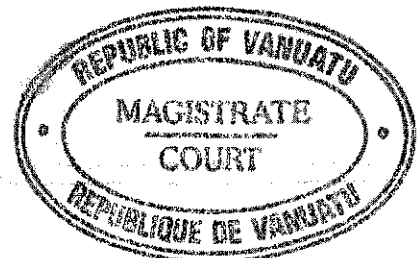
EMILE BONG

Coram: Moses Peter
Court Clerk: Florina Ephraim

Appearances: Betina Ngwele for the State
Linda Bakokoto for Defendant
Defendant appear in Person

SENTENCING

1. Mr. Emile Bong, you first appeared in court on 3rd April 2017 and pleaded guilty on the charge of Abusive and Threatening Words contrary to section 121 of the Penal Code Act [CAP.135].
2. Today you appear for sentencing on the charge after time was allocated for a pre-sentence report to be submitted by Probation Officer in the Correctional Service, and sentencing submissions to be filed by both counsels.
3. The brief facts of the case stated that the complainant namely Madelyn Roselyn lodged a complaint to the Police alleging that on 26th June 2014 whilst she was serving as a cashier at Esah Shop, you entered the shop and bought TVL refill of VT 100. Upon scratching the card, you realized that some number of the refill had been scratched off so you went back to the shop to get a replacement of the card. The complainant explained that the damaged card cannot be replaced and that you must pay for a new card. She also advised you to contact TVL for assistance with regards to the missing numbers. You got really upset and began to utter abusive words at her and her colleagues. You also hit the counter with your hand and utter words to this effect "yufala wantem pispis lo clothes blo yufala?" The complainant and her colleagues were afraid and thus called the police for their intervention.
4. You were cautioned by the police with regard to the complaint and chose to remain silent.
5. The maximum penalty for Abusive and Threatening Language is 3 years' imprisonment.



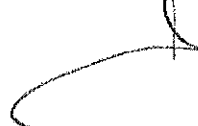
6. The Court is grateful to both counsels for their helpful written sentencing submissions.
 7. The complainant does not deserve such treatment from you as she does nothing wrong to you. You fail to accept the fact that the numbers in the card went missing because you scratched hard on the card thus removed several numbers from the card. They cannot replace the card because of your wrong. Had you paid attendance to her advice to you, you could call the TVL office and the card numbers will be given to you.
 8. When everyone is supposed to live peacefully you as a police officer who is entrusted with a duty to enforce and promote law and order in our society acted in a manner that contracts that whole duty people expects from you.
 9. The complainant and her friends are adult and by uttering words like you will make them urinate their pants does not show any respect from you at all. You shame yourself with your office on the actions you made against the complainant and her work colleagues.
 10. A sentence I will impose on each of you is to mark the seriousness of your offence and to set as an act of deterrence to you as a police officer and the message needs to be sent to all Police Officers who are keepers and protectors of the law that the court will not tolerate such offending.
 11. In the case of **Public Prosecutor v Willie [2015] VUSC 14**, the defendant was charged with 1 count of Abusive words and 1 count of threats to kill. He was sentenced to 18 months' imprisonment but suspended for 2 years. In addition, he was ordered to undertake supervision under the Niufala Rod Program for 12 months.
 12. I consider that the starting point for you shall be 4 months' imprisonment.
 13. The aggravating factors taken into account are:
 - o You are a Police Officer acting in a manner contrary to your duty.
 - o You verbally abused the complainant and her colleague cashiers who are all women.
 14. In considering the aggravating factor, I uplift this by 2 month making a total sentence of imprisonment to 6 months.
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15. The mitigating factors taken into account from your counsel are that:
 - o You are 40 years of age and hail from Ambrym Island
 - o You are a first time offender
 - o You serve as a Police Officer.
 - o You are married with 5 children who depended entirely on your employment for survival.
 - o The delay in prosecuting the case as it appears the offence was committed in June of 2014 but you were charged on 3rd July 2015.




16. You are entitled to one third reduction of the sentence because of your guilty plea and that is 8 weeks' reduction which now leaves you with a balance of 4 months' imprisonment.
17. I deduction 1 month for the delay in prosecuting this case with other mitigating factors personal and circumstantial to your offending as submitted by your counsel.
18. Your end sentence is 3 months' imprisonment.
19. I have considered the nature of your offending and have accepted to suspend your sentence for 12 months. In event that you are further convicted for any other offences, this sentence will automatically be activated and you will serve the full sentence together with any other sentences imposed on you for your reoffending.
20. In addition, you are ordered to pay a fine of VT 7,000 in 15 days from today failure of which, your imprisonment sentence will be activated.
21. You have 14 days to appeal to the Supreme Court if you are not satisfied with this sentence.

DATED at Port Vila this 24th day of May 2018

BY THE COURT


MOSES PETER
Senior Magistrate


REPUBLIC OF VANUATU
MAGISTRATE
COURT
REPUBLIQUE DE VANUATU