

**PUBLIC PROSECUTOR - v - WILLIE MAFE (absent)  
MICKY TABI (absent)  
JEAN YVES SHEM  
BILLY LOWONBONG  
HENDRY MAGREI  
JULES SEULE**

**Coram:** V. Lunabek CJ

**Counsel:** Mr Tristan Karae for the public prosecutor  
Mr Eric Molbaleh for the Defendants: Micky Tabi, Henry Magrei and Jules Seule  
Mr Tom Joe Botleng for Defendants: Jean Yves Shem, Willie Mafe and Billy Lowonbong

**SENTENCE**

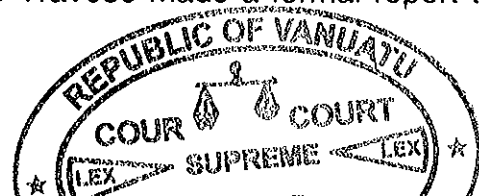
Defendants: Jean Yves Shem, Billy Lowonbong, Henry Magrei and Jules Seule, you appear today before the Court for sentence. Defendant Willie Mafe and Micky Tabi failed to appear for your sentencing today 8 July 2011. The Court will sentence you both in your absence.

Each and all of you are charged with the offences of unlawful entry, contrary to section 143 of the Penal Code Act [CAP.135] and theft, contrary to section 125(a) of the Penal Code Act [CAP.135].

On 3 May 2011, each of you entered guilty pleas on offences of unlawful entry and theft in counts 1 and 2 as charged on the criminal information dated 3 May 2011.

The brief facts of your offending are provided by the prosecution. Your respective lawyers accept them on behalf of each of you before each of you entered guilty pleas on offences charged against you. These facts are not disputed. They are set out as follows:

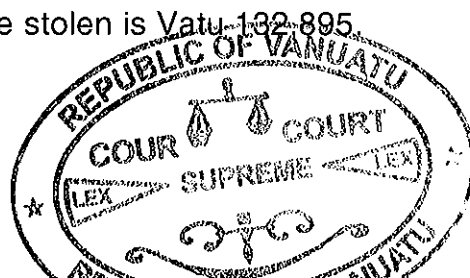
On 28<sup>th</sup> February 2011, the complainant Marco Traveso made a formal report to



the police on a break in that took place at Traverso Boucherie around 2am that morning. He is the Manager of the shop and large quantities of goods were stolen at the time of the offence. Items stolen were:

Description		QTY Lost	Total
Agavita Tequila Gold		4	15,200
Campari		1	3,300
Canadou		2	2,900
Captain Morgan		1	4,800
Kassava 750m1 Manioc-Spirit	1,800	4	7,200
Lordson dry Gin	3,550	4	14,200
Martini Bianco	2,500	2	5,000
Martini Extia Dry	3,500	1	3,500
Martini Roso Dry	2,500	1	3,500
Martini Roso Red	2,500	1	2,500
Tia Maria 700m1	3,650	1	3,650
Vodka Smirnoff 700m1	3,900	1	3,900
Victoria Beer(V) Tin	295	87	25,665
Tusker Beer	250	23	5,750
Picnic Chocolate	180	11	1,980
M&M Chocolate	175	88	15,400
Mars Chocolate	150	7	1,050
Snicker Chocolate	150	60	9,000
Rice	3,950	2	7,900
		300	132,895

The police conducted their investigations and arrested each and all of you for the offences. You were questioned and you all said that Jean Yves Shem was the mastermind of the offending and that he planned it all for you to steal from the shop. You all walked from Fresh Wota to the shop while Jean Yves and Hendry Magrei approached the door and forced open it with Crow Bar then they called you all in. As you entered, Jean Yves, Henry, Mafe and Mickey went upstairs to where the safe was but they could not remove the safe as it was too heavy so they came downstairs and joined Jules and you took items from the shop. Jean Yves arranged for a transport to pick you up with the stolen goods and to drive you to Fresh Wota to drop off 2 of the 25kg rice at Jean Yves' house. You were driven to Pump Station near Switi where you all got off and walked to Sam Siko's house, roasted the food and drank alcohol you had stolen from the shop. The total amount of the items you have stolen is Vatu 132,895.



In sentencing consideration, I take into account of the submissions by prosecution and those of your defence lawyers and also the pre-sentence report filed by the Probation Office.

Unlawful entry into a non-sleeping house and theft are serious offences with a respective maximum penalty of 10 and 12 years imprisonment.

In the present case, your offending is serious and aggravated by the following factors:

- some degree of planning and pre-meditation;
  - damage to property to gain access to the shop;
  - group together – criminal enterprise;
  - offence during the night;
  - value of items (VT132,895).
- 
- Jean Yves Shem has 4 previous convictions of unlawful entry and theft; and
  - Henry Magrei has previous conviction for the same offence in 1999.

The starting point of your sentence is 4 years imprisonment.

In mitigation, I take into account of your pre-sentence report, what your lawyer told the Court on your behalf; for some, who are first time offenders, (it is in their credit), your cooperation with the police and your guilty pleas at the reasonable time.

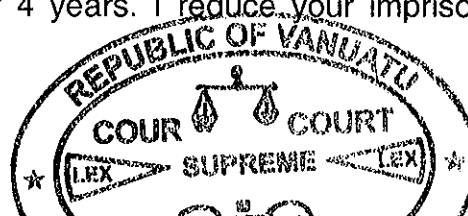
Your individual sentences are as follows:

Willie Mafe

You are sentenced to an imprisonment of 4 years. It is reduced to 20 months imprisonment suspended for a period of 2 years and I order that you perform 200 hours of community work in addition to your suspended imprisonment sentence. The effect of suspension is explained by way of written Notice to be served together with the sentence on you Defendant Willie Mafe, by the Sheriff of the Supreme Court.

Mickey Tabi

You are sentenced to an imprisonment of 4 years. I reduce your imprisonment



A handwritten signature in black ink, consisting of a stylized, cursive script.

sentence of 4 years to 20 months and suspended for a period of 2 years. I order you to perform 200 hours community work in addition to your suspended imprisonment sentence. The effect of suspension is explained by way of written Notice to be served together with the sentence on you Defendant Mickey Tabi by the Sheriff of the Supreme Court.

Billy Lowonbong

You are sentenced to 4 years imprisonment. It is reduced to 20 months and suspended for a period of 2 years. I order you to perform 200 hours community work in addition to your suspended imprisonment sentence. The effect of suspension of sentence is explained to you personally in Court.

Jules Seule

You are sentenced to 4 years imprisonment. It is reduced to 20 months and suspended for a period of 2 years. I order you to perform 200 hours community work in addition to your suspended imprisonment sentence. The effect of suspension of sentence is explained to you personally in Court.

Jean Yves Shem

You are sentenced to 4 years imprisonment. It is reduced to 2 years and 8 months. It is consecutive to your current sentence you are serving in the lawful custody. This means that once you will complete your present term of imprisonment sentence, you shall continue to stay in custody for 2 years and 8 months for your punishment in Criminal Case No.50 of 2011.

Henry Magrei

You are sentenced to 4 years imprisonment. It is reduced to 2 years imprisonment with immediate effect. You shall serve an imprisonment sentence term of 2 years with immediate effect.

Each of you has 14 days to appeal his sentence if he is not satisfied with it.

**DATED at Port-Vila this 8<sup>th</sup> day of July 2011**

**BY THE COURT**

**Vincent LUNABEK  
Chief Justice**

