

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

Criminal Case No. 97 / 2009

PUBLIC PROSECUTOR

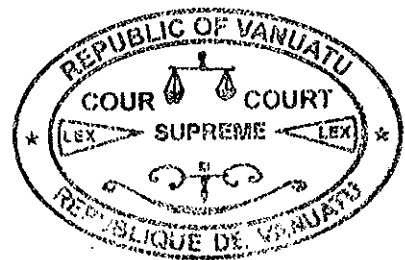
V

ALICK EDMOND

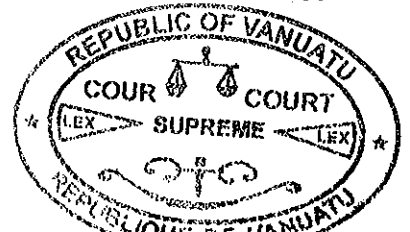
Hearing: 28 November 2011
Before: Justice Robert Spear
Appearances: Gregory Takau for the Public Prosecutor
Saling Stephens for the accused

SENTENCE

1. Alick Edmond, you are for sentence having been found guilty of 25 counts of theft.
2. The factual basis on which the sentence is to be addressed is contained in the decision given on 14 October 2011 when the verdicts were returned. Essentially, over 2001 and 2002, you were working as bank officer for the National Bank of Vanuatu at its branch office at Lakatoro on Malekula. During that time, you stole substantial sums of money from the bank account holders using a number of stratagems designed for your personal benefit.
3. The bank's practice was to undertake a daily account balance. Some cases involved you forging bank withdrawal forms so that you could extract money from accounts of people you clearly perceived were simple unsophisticated village people who were unlikely to detect that they had lost money. In other cases, the cash deposited with you simply never made its way into the bank records. You also altered deposit forms and withdrawal slips to enable you to take cash from the accounts.

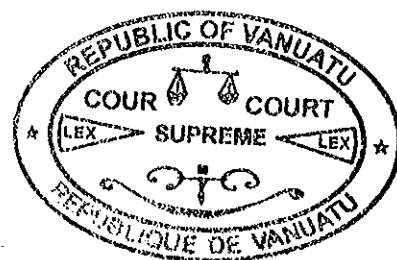


4. It is difficult to be entirely clear as to how much you got away with. That is because although the total amount of the dishonest transactions came to over Vt 5 million, in a number of cases the cash was taken, held by you for a few days, and then re-deposited in an attempt to cover up the shortfall.
5. Be that as it may, what is abundantly clear is that you benefited substantially over that relevant period from 2001 through to August 2002 because you misused and you abused your position as a bank officer for personal gain.
6. The verdicts returned were largely based upon your confessions to this dishonest activity. It is of some significance that, while I ruled that your initial statements on the day of your arrest on August 2002 were not admissible, the only objection that you put up to the admissibility of the subsequent statements was that they never happened and you were never interviewed. I rejected that as being absurd and of course there were a number of statements taken from you with some indeed written out in your own hand and most were signed by you.
7. Having regard to the period of time over which this fraud took place, the number of separate transactions, the devious means that you employed to defraud both the bank its bank customers and what appears to be your complete absence of any remorse, I consider that this case warrants the Court adopting a starting point of 3 years imprisonment. That recognises in particular the extent of the offending and the clear abuse of the position of trust that you were in. It is also sufficient to emphasise exactly how firmly the Courts will approach a sentence for those in a position of trust and who abuse that trust.
8. This case however has had an unfortunate history. You were arrested on these matters in August 2002 and of course you did not return to work for the bank. You were living at that time in the village of Wiel on Malekula which is about an hour away from Lakatoro. You lived there right through until May of this year. I understand that the Court file was destroyed in the fire of the Court house here in 2007. That required the Court file to be

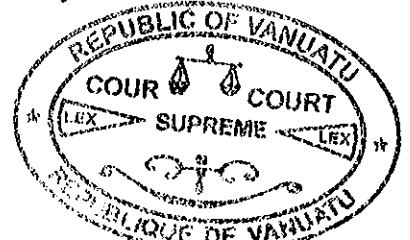


reconstituted. However it does not explain why it took so long for you to be dealt with by the Courts.

9. My understanding of this case is that notwithstanding you were arrested on August 2002, the interview process continued over about the next 6 months. You were committed by the Magistrate's Court into the Supreme Court for trial in 2004. The question then remains why it took from 2004 through to 2011 for your trial to be reached. Certainly, the Court file does not assist except in respect of the last couple of years.
10. I have asked counsel today if they can assist me as to why it took so long. Mr Takau has not had previous involvement with the case and so he was unable to be of much assistance there. Mr Stephens indicated that, on a number of occasions, the case could not be heard although it had been set down because the prosecutor did not appear or even when the prosecutor did appear the case had not been prepared for trial.
11. The Court file confirms that after the file was constituted in 2007 there were occasions when you did not appear and Mr Stephens did not appear. In short, however, there appears to have been something of a lack of inertia on the part of the State in relation to this case. I am aware from the file that the first warrant of arrest was issued in 2007 because of your non-appearance at Court. Yet, it was not executed withstanding that you had lived in the village of Wiel right through until May of this year when you were arrested following a fresh warrant that I issued the previous month.
12. This case was set down for trial before me at Lakatoro in March of this year. I was there, the prosecutor appeared and I was informed that the witnesses were organised. However, neither you nor Mr Stephens appeared. That is when the warrant was issued for your arrest - a fresh warrant issued by me - and you were arrested very shortly after that in early May 2011. You have been in custody ever since. Indeed, you have been on remand in custody first awaiting trial and now awaiting sentence in total for just over 6 months.

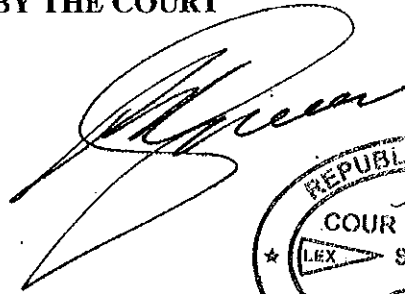


13. There is little I can identify about this case that could be considered in mitigation of sentence even having regard to your personal factors and such like. Your actions were devious, they were callous and they were designed to ensure that you benefited personally irrespective of whom your victims would be. It does appear, however, that the National Bank of Vanuatu has reimbursed those people from whom you stole funds.
14. I understand that you have not worked since that time you are at the Bank. You have no assets to speak of. Making a compensation order against you would be difficult on that score alone. However, it is also difficult to understand how much you actually got away with as I have already mentioned.
15. The only mitigating factor is the delay that has been occasioned getting this case to trial. I simply do not understand how, even with a reluctant accused (albeit one who was living in a village not far away) this case was not been capable of being progressed to trial at a much earlier time. You have a constitutional right to be tried within a reasonable time. That has not occurred. However, it certainly has not occurred for reasons that would have encouraged me to stay the prosecution. I am in no doubt that you contributed to the delay. It may be more accurate to say that you took advantage of (what I have described as) a lack of inertia on the part of the prosecution agencies, including the police, to progress this case to trial.
16. I propose to discount the sentence by 2 years to reflect what it appears to me to an extraordinary period of time taken from August 2002 to get you to trial. It would not have taken much, and it did not take much this year, simply to provide encouragement for the warrant to be executed. Y were taken into custody and held there until we had a time for trial and that was what happened this year. It was not hard to achieve that outcome. It just required clear directions to be given.
17. In the normal course, I would now impose a sentence of 12 months imprisonment on you. However, you have been in custody now for over 6



months and that means that you are already eligible for release given the parole provisions that are applicable. Accordingly you are sentenced to time served which is based effectively on a sentence of 12 months' imprisonment. You are now free.

BY THE COURT

A handwritten signature in black ink, appearing to be 'A. J. ...', written over the court seal.