

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**

Criminal Case No. 94 of 2014
Consolidated to Criminal Case No. 95 of 2014

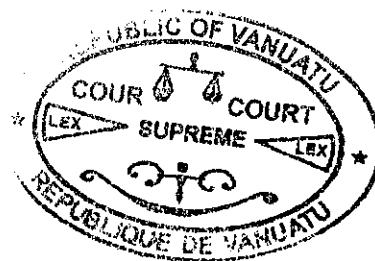
(Criminal Jurisdiction)

**PUBLIC PROSECUTOR – VS – WARREN MAO
FRANK ALBAN**

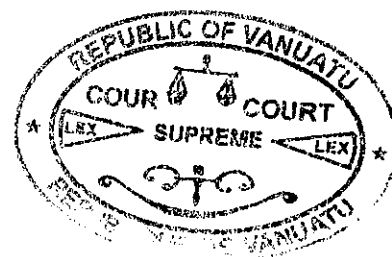
Sentence: *Friday 11 September 2015 at 2.45 pm at Luganville, Santo*
Before: *Justice SM Harrop*
Counsel: *No appearance for the Public Prosecutor
Ms Tari for the Defendants*

SENTENCE

1. Mr Alban pleaded not guilty to Count 2 in the consolidated information back on 18 August 2014 before Justice Sey. After various delays resulting from his failure to be present at Court, whether that was his fault or not I am unsure, he has this afternoon appeared and changed his plea to guilty. The charge to which he has pleaded guilty was amended earlier this week at Wunpuko when I was dealing with his co-offender Warren Mao. Accordingly Mr Alban has pleaded guilty at the first opportunity to the count in its current form.
2. Normally of course a sentencing would not proceed without the public prosecutor being represented and indeed in relation to a charge as arson there would normally be a pre-sentence report as well. But for reasons which I will explain, I am going to proceed with sentencing in the absence of both.
3. Ms Tari and I were at Wunpuko this week with Mr Massing for the Supreme Court session there and included in the work completed was the sentencing of Warren Mao on CountS 1 and 2 on this information. I gave a quite a lengthy sentencing decision and Mr Massing submitted that community work was the appropriate sentence. I duly imposed a sentence of 125 hours community work on Mr Mao.



4. I intend that the remarks I made in the course of that sentencing so far as relevant to Mr Alban should be incorporated in this judgment.
5. Mr Alban was involved only in the second of the two arsons and as between the two it was the less serious. The damage caused to the building was only to the window screens and there was no claim for compensation. I understand that the house was able to be repaired without great difficulty or indeed expense.
6. On that basis it seems to me appropriate that Mr Alban should receive a sentence slightly less than half that received by Mr Mao. Mr Mao as I say was convicted of two arsons and the other one was more serious than the one in which Mr Alban was involved.
7. Having regard to all the circumstances I am satisfied the appropriate sentence for Mr Alban is one of **60 hours community work** and he is sentenced accordingly.
8. Ms Tari tells me that although Ms Alban is going to be in Luganville for the next couple of weeks he will then be returning to his village in North West Santo, which I understand is Vunor village near Nokuku village where Mr Mao lives. The arrangement for supervision of Mr Mao's community work was that the local chief would ensure that there was done and I hope that the same chief may be able to take responsibility for ensuring that Mr Alban's sentence is also completed.
9. However a copy of this judgment should be sent to Corrections here in Luganville so that a local probation officer can follow this up and make sure that those sentences are completed appropriately.
10. I decided to proceed with sentencing because I am sure that Mr Massing would not disagree with this sentence and because if I adjourn sentencing there is a real risk of not having Mr Alban before the Court for a further lengthy period. Also in terms of Mr Alban's personal circumstances Ms Tari has been able to assist without the need for a pre-sentence report, which in any event is less important where a community-based sentence is being imposed.



DATED at Luganville, this 11th day of September 2015.

BY THE COURT

Roger Mbatia

