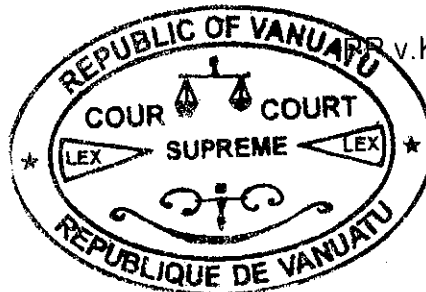


PUBLIC PROSECUTOR
-v-
MICHEL KEMU

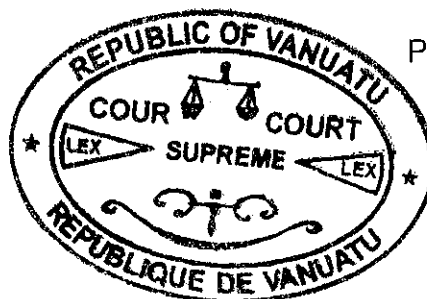
Coram: *Justice David Chetwynd*
Counsel: *Mr Tristan Garae for the Prosecution*
Ms Kylie Bakeo for the Defendant
Date: *Hearing 20th October 2017*

SENTENCE

1. The Defendant Michel Kemu has pled guilty to one charge of obtaining money by false or misleading statements (section 130C(b) of the Penal Code) and an alternative charge of obtaining money by deception (section 130B). I intend to sentence on the basis of the plea of guilty to the offence under section 130C(b) only. The maximum sentence under the section is 12 years imprisonment.
2. The offence occurred in June 2013. The defendant obtained VT 300,000 from relatives on the pretence he was helping them buy a bus. The money was given, by the relatives, to a security guard at the garage in Port Vila where the purchase was going to be made. Shortly after the money had been so deposited the defendant returned to the garage and asked for the money back. His relatives knew nothing of that and had not asked or authorized the defendant to collect the money. The offence was soon discovered and reported to the police.



3. Very soon after the defendant's misappropriation of the money there was a custom ceremony when the defendant handed over various items and VT 100,000 by way of reconciliation. There is some uncertainty about the actual sum handed over, one report says it was VT50,000 but the defendant confirms the suggestion in the Pre-Sentence Report that he gave his sister VT 100,000. The PSR also records that the defendant is still thinking and working towards full repayment but has been prevented from making full reparation because of the custom ceremony.
4. Looking at other cases in this jurisdiction involving similar sums the sentencing range appears to be in the region of 20 to 24 months imprisonment. This was a blatant theft from close relatives. Those relatives trusted the defendant to do right by them because of the familial relationship. He clearly breached that trust. The money he obtained was frittered away on personal expenditure and quite possibly, mainly on alcohol. The appropriate sentence would be 20 months imprisonment. However the defendant is not a first time offender. In 2006 he was sent to prison for various offences involving dishonesty such as burglary and theft. He was sent to prison for 5 ½ years. That is something which must be reflected in sentencing and the defendant is sentenced to 2 years imprisonment.
5. As has been noted the offences took place in 2013, some 4 years ago. There is no apparent reason for this long delay. It is certainly not attributable to the defendant. He is entitled to a deduction in his sentence and I propose to reduce the sentence by 9 months. I would have made a greater deduction if, in the intervening 4 years, the defendant had made greater efforts at reparation rather than conciliation.
6. That leaves a final sentence of 15 months. I am told the defendant spent no time in custody following arrest.



7. The defendant did enter a plea as soon as the matter came to Court. He is entitled to a full 1/3rd reduction in sentence. The final sentence is 10 months imprisonment.
8. On the basis that the defendant has not been in trouble with the police for some 4 years I am prepared to suspend the sentence. I will do so for a period of 2 years. Perhaps, now that this case is no longer hanging over his head, the defendant will think of some way in repaying his sister; if not in money then perhaps in kind. However he still has a debt to society and that will be paid by completing 100 hours unpaid work in the community. He will have to report to the Probation Officer, who will supervise the work, within 72 hours
9. If the defendant is dissatisfied with this sentence is entitled to appeal. He has 14 days to do so. Time will start to run when the defendant, through his counsel, receives a copy of this written decision.

Dated at Isangel Tanna, this 20th day of October 2017.

BY THE COURT


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D. CHETWYND
Judge

