

**BETWEEN:** Public Prosecutor  
Appellant

**AND:** Franco Noal and Karie Sandy  
Respondents

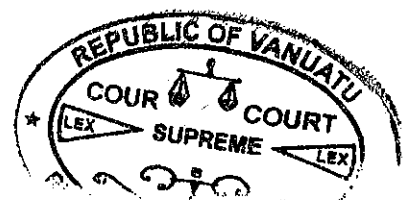
*Date:* 13 July 2018  
*Before:* Justice G.A. Andrée Wiltens  
*In Attendance:* Mr P. Toaliu for the Appellant  
Ms K. Karu for the Respondents

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Judgment

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1. This was an appeal from a Magistrate's Court decision to dismiss the case against the Respondents for lack of prosecution on 26 February 2018.
2. The matter has some history. Both Respondents pleaded guilty to the charges they faced on 2 October 2017. Thereafter attempts to deal with sentencing were thwarted, mainly due to non-attendance by one of both of the Respondents at various further scheduled appearances. One sentencing date was arbitrarily vacated by the Magistrate for no obvious reason, which upset both counsel. Finally, when the matter was again scheduled for sentencing, no notice of the date was provided to the prosecution; and when the matter was called, the case was dismissed due to the absence of a prosecutor.
3. Mr Toaliu appealed the case dismissal. Ms Karu for the Respondents conceded the appeal and agreed that the next step ought to be to deal with sentencing.
4. Accordingly the appeal is allowed. The matter will be called again at 8.30am on 27 July 2018. Both Respondents are to be formally summonsed to attend to be sentenced – written

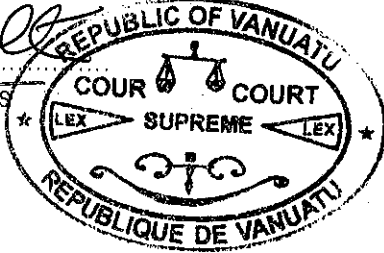


submissions by both counsel are on file. The Respondents need to know that if there is no appearance at 8.30am on 27 July 2018, a warrant of arrest will be issued – with the likely result being that they will be arrested and remanded in custody until a new date for sentencing can be arranged. This warning is necessary as the delays in concluding this matter are far too extensive, and they have to stop.

5. If Pre-Sentence Reports are required, counsel will need to attend to that, as it is unclear whether the Magistrate ordered them. Further, if a translator is required, counsel will need to advise the Court asap.

Dated at Port Vila this 13th day of July 2018  
BY THE COURT

*G.A. Andrée Willens*  
Justice G.A. Andrée Willens



The seal of the Republic of Vanuatu Supreme Court is circular. It features a central scale of justice. The words "REPUBLIC OF VANUATU" are written in an arc at the top, and "REPUBLIQUE DE VANUATU" at the bottom. In the center, "COUR SUPREME" is written, with "COUR" on the left and "COURT" on the right. Two small triangles containing the word "LEX" are positioned on either side of "SUPREME".