

BETWEEN: Public Prosecutor

AND: Michael Tau
Defendant

Date of Sentence: 23 November 2018
Before: Justice G.A. Andrée Wiltens
Counsel: Mr D. Boe for the Public Prosecutor
Mr J. Garae for the Defendant

SENTENCE

A. Introduction

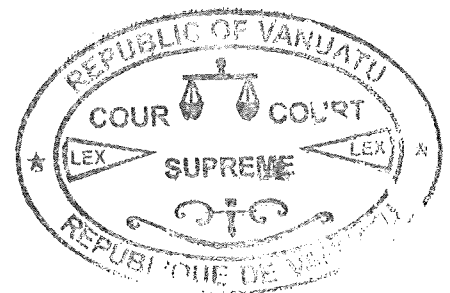
1. Mr Tau pleaded guilty to one charge of arson, contrary to section 134(2) of the Penal Code. The maximum sentence for that offence is a term of 5 years imprisonment.

B. Facts

2. On the night of 16 June 2018 Mr Tau set fire to the house in the Banban area of Luganville, then occupied by Mr Robert Dennis. It was a locally made wooden structure with an iron roof. It was Mr Dennis' home, and it was completely destroyed by the fire.
3. Mr Tau frankly admitted the offence when questioned by the police. He explained that he had gone to the house to collect his handbag; but as it was dark, he lit a piece of cloth to be able to see. He said he must have forgotten or neglected to completely extinguish the flame before he left.

C. Aggravating and Mitigating Factors of the Offending

4. There are no aggravating factors to the offending.



D. Start Point

5. The start point for this offending, as required to be identified by *PP v Andy* [2011] 14, is set at 3 years imprisonment.

E. Personal Factors

6. Mr Tau is still a young man of 19 years of age. He has no qualifications. His behaviour can be best described as erratic due to his having received an electric shock when very young, which continues to affect him. Unfortunately he has a previous conviction for theft in 2017 for which he was sentenced to 40 Hours of Community Work. There has been no custom reconciliation ceremony. I reduce the start point by 3 months due to these factors.
7. The final matter to take into account is Mr Tau's plea. I allow a one-third reduction to the start sentence for his plea.

F. End Sentence

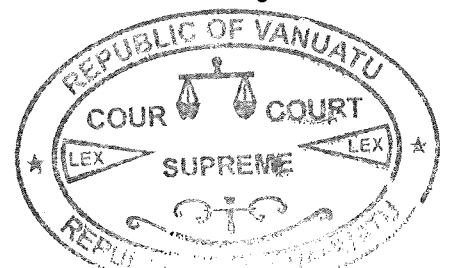
8. The end sentence that is imposed is 10 months imprisonment.

G. Suspension

9. Section 57(1) of the Penal Code requires the Court to consider whether the end sentence should be imposed immediately or suspended. The Court has jurisdiction to suspend the sentence if immediate incarceration is inappropriate in view of the circumstances, in particular the nature of the crime, and the character of the offender.
10. In my analysis, Mr Tau's sentence must be suspended – he is still young, with obvious prospects of rehabilitation. Incarceration would achieve very little in his case. I accord little weight to his previous conviction – not only was he younger then than now, but the sentence imposed reflects what must have been a relatively minor matter.
11. Accordingly, the sentence of 10 months imprisonment is suspended for 12 months. Mr Tau needs to understand that he needs to remain offence free for 12 months from today, or he will be incarcerated for 10 months.
12. Suspending a sentence is often accompanied by a direction that the offender be subject to a period of supervision by the Probation service, to ensure that re-offending risks are minimised. I am satisfied that is required in this instance. Accordingly 12 months supervision is also imposed on Mr Tau.

H. Compensation

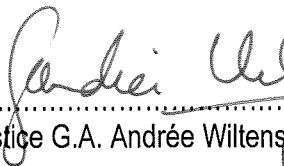
13. The Court must consider whether compensation should be imposed, due to the harm occasioned.
14. Due to Mr Tau's personal financial situation it would be wrong and too onerous for me to impose a compensation order on him. However, I am firmly of the view that he ought to do



something concrete for the community to make up for his criminal misconduct – accordingly I am therefore imposing an additional penalty of 100 hours of community work.

15. Mr Tau has 14 days to appeal this sentence if he disagrees with it.

**Dated at Luganville this 23rd day of November 2018
BY THE COURT**


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Justice G.A. Andrée Wiltens

