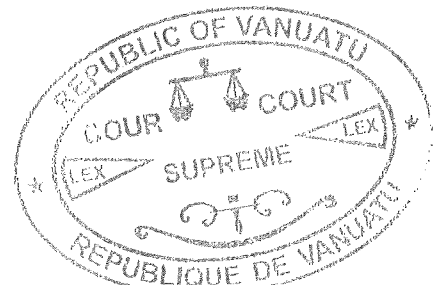


PUBLIC PROSECUTOR VS VICTOR KIEL

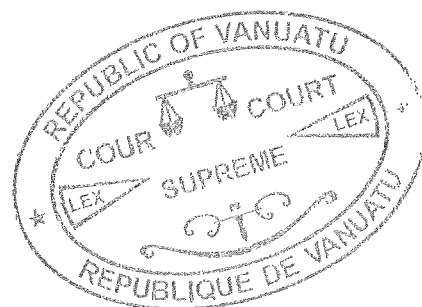
Date of Plea: 2nd October 2018
Date of Sentence: 11th March 2019
Before: Justice Oliver Saksak
In Attendance: Lenry Young for Public Prosecutor
Henzler Vira for Defendant

SENTENCE

1. Mr Victor Kiel, you are here for sentence today for having admitted to one charge of unlawfully entering a dwelling house.
2. On the early hours of 22nd January 2016 you entered the house of Jonas Maliliu at Anamburu Area, Port Vila and stole water melon from the fridge and VT 5.700 in cash. You gained access by breaking a window. Jessika Manukai, Lintes Kalo and Filis Kalo saw you in the act at the time. You were reported to the police and charged. You have accepted these facts.
3. The maximum penalty for this offence is 20 years imprisonment.
4. Your offendings occurred between 2:00am and 3:00am. You had planned for that to happen. The house was used as a dwelling place for the complainant and his family. You caused damage to the window in order to gain access into the house. You stole water melon. You stole cash in the sum of VT 5.700. You gave some watermelon and VT 1.000 cash to Titus. These are the aggravating features of your offending.
5. Taking all these together with the serious offence you committed, I agree with the prosecutor that your starting sentence should be 4 years imprisonment, there is no uplift.



6. I have seen the submissions filed by your lawyer on 26th November 2018. I take into account the mitigating factors raised, but I disagree with his submission that you should be discharged without conviction as this would be an unsafe precedent.
7. I am further assisted by the pre-sentence Report filed by Probation Service on 16th November 2018. I note you are now 22nd years old of mixed parentage of Makira and Pentecost. You have attended Malapoa College and the Institute National Technology Vanuatu (INTV). You also attended for 1 year at the Tourism Hospitality. You have skills in working in a Bar and in doing graphic designs. Your ambition in life is to continue to study to help you find a better job and to build yourself a modern house.
8. You have shown remorse by performing custom reconciliation involving exchanges of mats, bananas, manioc, kumala and local chickens. You have refunded VT 5.000 to the complainant. You are of good character without criminal convictions.
9. Taking all your personal circumstances together with your mitigating factors, I deduct your starting sentences of 4 years imprisonment by 12 months (1 year) is deducted leaving your end sentence at 3 years imprisonment.
10. You are therefore convicted and sentenced to an end sentence of 3 years imprisonment for one charge of unlawfully entering a dwelling house.
11. Finally I consider whether I should suspend your end sentence. The prosecutions have no objection. I therefore suspend your end sentence of 3 years imprisonment for 2 years on condition that you must not commit this offence again or any other offence within a period of 2 years. If you do, you will go directly to prison. This suspension is made under section 57 of the Penal Code Act [CAP. 135].



12. You have 14 days right of appeal against this sentence if you do not agree with it.

DATED at Port Vila this 11th of March 2019

BY THE COURT


OLIVER.A.SAKSAK

Judge

