

**IN THE SUPREME COURT
OF THE REPUBLIC OF VANUATU**
(Criminal Jurisdiction)

Criminal
Case No. 19/303 SC/CRML

BETWEEN: Public Prosecutor
Prosecutor

AND: Pierre Esrah Noel
Defendant

Coram: Justice Aru

Counsel: Ms. M. Tasso for the Public Prosecutor
Mr. L. Moli for the Defendant

SENTENCE

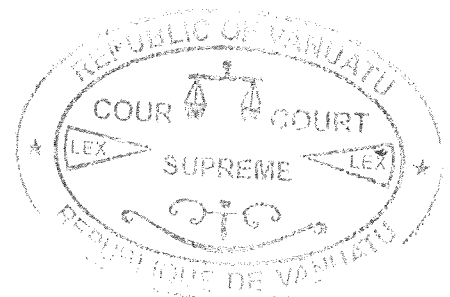
Introduction

1. Mr PIERRE ESRAH NOEL this is your sentence. You were charged with one count of robbery, arson and obstructing a Police Officer. On 6 March 2019 you pleaded guilty to arson and entered not guilty pleas to the remaining charges. Following a trial on these charges on 3 June 2019, you were found not guilty on the charge of robbery and found guilty on the charge of obstructing a Police Officer.

Facts

Arson

2. Sometime before 6 November 2018 the defendant separated from his partner Mary Nanau. As her sister is Fred Iapatu's wife, Mary Nanau left the defendant and went to live with her sister at Teouma area. She refused to speak to the defendant when he went to visit her. As a result on 6 November 2018 around 8 pm at night he went to Fred Iapatu's home and set it on fire. He was seen by Fred Iapatu's wife that night cutting down food crops around the house with a bush knife. She feared for her life and took her children and fled to a relative's home. After they left the defendant took a fire stick and set fire to their home. Neighbours tried to stop the fire but they were too late. All the complainant's belongings in the house were destroyed. Mrs Iapatu was the only one at home at that time with their 6 children who were aged between 6 to 14 years.
3. When the defendant was arrested, he admitted the offending.



Obstructing a Police Officer

4. On 6 November 2018 when the Police were called, the defendant had left the scene of the fire. Constable George Siri was part of the response team. When the defendant saw the Police vehicle he ran away to hide from them. When he was finally located he had a knife with him and was told to put down the knife by Constable Siri .Instead he ran towards the constable with the knife in hand. Constable Siri reacted by grabbing the defendant and tackling him to the ground. The knife was removed when the defendant was held tightly to the ground.

Pre-sentence report

5. The pre-sentence report states that Mr Noel is 25 years old with no previous convictions. He comes from Lenakel village on Tanna and is the eldest in his family. He resides at Teouma area .He completed his education at class 4 and could not continue due to financial constraints. He earns his living from gardening. He has a good relationship with his family and community .He consumes alcohol and kava occasionally.
6. He is someone with a short temper and his chief told the probation officer that the defendant does not listen to advise when corrected.

Aggravating factors of the offending

7. There a number of aggravating factors .First there is an element of planning involved. The house was set on fire at night under cover of darkness. The defendant had a weapon with him, a knife which he used to cut down food crops around the house. The victim had six young children aged between 5 to 14 years who lived in the house and fled in fear of the defendant before their house was burnt to ground with all their belongings and a sum of VT 100,000.

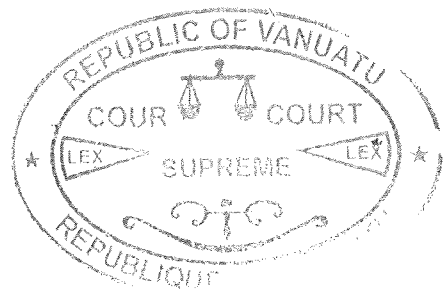
Starting Point

8. Taking into account these factors considering that arson is the lead offence I adopt a starting point 4 years imprisonment.

Mitigation

9. The defendant is a first time offender. His family performed a custom reconciliation on his behalf with the victim by exchanging the following items:-

- 1 Pig
- 1 stem kava
- 1 mat
- 2 blanket
- 3 bedcovers



10. Being a first time offender I reduce the sentence by 10 months and deduct a further 2 months for the time previously spent in custody reducing the sentence to 3 years imprisonment.

Guilty plea

11. The 3 charges arise from the same set of events but when the matter was called for plea, the defendant entered not guilty pleas to two of the charges and pleaded guilty to the remaining. He is therefore not entitled to the full one third discount. 6 months is deducted for the guilty plea.

End sentence

12. In relation to count 3 the defendant is sentenced to 6 months imprisonment .The end sentence which is to be concurrent is 2 years and 6 months imprisonment.
13. The circumstances and nature of the offending are very serious. Therefore the sentence will not be suspended and is effective from 3 June 2019 when the defendant was last remanded into custody. The sentence is to deter the offender and the public from such offending and is punishment for the crime.
14. You have 14 days to appeal if you are not happy with the decision.

DATED at Port Vila this 23rd day of July, 2019

BY THE COURT

.....
D. Aru
Judge

