

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

Criminal  
Case No. 20/645 SC/CRML

**BETWEEN:** Public Prosecutor

**AND:** Chen Chunzhu  
Zeng Xianchun  
Defendants

*Date:* 25 June 2020  
*By:* Justice G.A. Andrée Wiltens  
*Counsel:* Mr S. Blessng for Public Prosecutor  
Mr B. Kalotili for D. Yahwa for the Defendants

---

**SENTENCE**

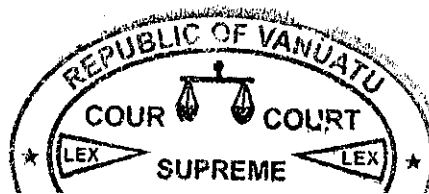
---

A. Introduction

1. Ms Chen and Mr Zheng are identically charged with 3 related charges each, as follows:
  - Charges 1 & 2: not responding to Part 15 of the Departure Card – maximum sentence of 6 months imprisonment and/or a fine of up to VT 5 million;
  - Charges 3 & 4: failure to declare – maximum sentence of a fine of up to VT 5 million or forfeiture; and
  - Charged 5 & 6: attempting to export prohibited goods – maximum penalty a fine of up to VT 10 million, or forfeiture.

B. Facts

2. On 31 May 2019, Ms Chen and Mr Zheng were on their way from Vanuatu to China. At the airport neither of them fully completed their Departure Cards– both omitted to respond to Part



15 which deals with declaring how much cash is being taken offshore. So, by omission, they passively offended.

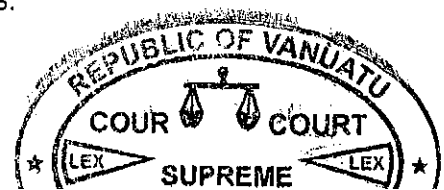
3. As well, there is a positive obligation on each of them to make a truthful declaration as to what funds they carried. They offended in that way also.
4. Thirdly, utilising concealment, they attempted to export in their hand luggage almost VT 7.9 million in cash. The cash was in various denominations and separated into seven amounts: A\$ 58,100, A\$ 3,616, A\$ 1,720, VT 80,000, RMB 1,299, A\$ 32,000 and A\$ 1,985.
5. When the cash was identified through the use of scanners, the defendants were stopped from travelling and promptly interviewed. Both made full admissions.
6. The cash located was seized and has been retained by Customs.

C. Aggravating/Mitigating Factors

7. The aggravating factor to this offending is the value of cash involved. There are no mitigating factors to this offending.

D. Mitigation

8. Ms Chen is 30; her husband Mr Zheng is 38. They have a 9-year old son who is living and studying in China. They own 5 supermarket stores in Vanuatu and employ over 20 Ni-Vanuatu staff. They also own a house; and have been resident in Port Vila for over 9 years.
9. Ms Chen and Mr Zheng co-operated with the authorities. They are said to be remorseful. Both have clear records.
10. There has not been custom reconciliation ceremony.
11. The defendants deny knowingly committing these offences – the facts of the case do not support that contention. Furthermore, they have travelled on many other occasions and it is difficult to understand, even with language issues, that they are unaware of international departure procedures and rules. It is telling that only a very small part of the Departure Card was not completed – the very part that relates to the cash secreted in different places within their hand luggage.
12. They explain they were under stress – Mr Zheng need to visit China for a check up on his intestinal cancer condition; and there had been recent news of a grandmother's fall, with resultant brain injury, which the defendants needed to attend to - financially and emotionally. Further, as this grandmother usually had care of their 9-year old son, there were immediate care issues of their son that also needed to be sorted out. As a result, the flights were urgently arranged and there was insufficient time to arrange for the more usual means of the transmission of funds to be adopted.
13. The defendants advise that it requires 2 or 3 weeks in order to transfer funds safely to China. Hence they explain they resorted to taking cash with them. That is also not accepted - in 2020, funds are electronically transferred internationally in mere moments.



14. Their explanations also make no mention as to why the various amounts had to be separated out. I am satisfied that was done as part of the concealment involved.
15. Despite their claims of not knowing that what they were doing was unlawful, I will sentence on the basis that both defendants acted in this fashion deliberately.
16. I sentence also on the basis that they have already paid a heavy price for this offending, in that their funds have now been forfeited.

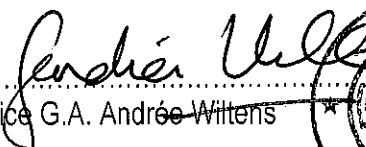
E. Pleas

17. Ms Chen and Mr Zheng pleaded guilty at the first available opportunity. However, the prosecution case against them is extremely strong, and really they had little option but to plead guilty. Accordingly, I am prepared to reduce the sentence start point by 25% for their prompt guilty pleas.

F. End Sentence

18. This offending warrants a fine only. The amount of the fines is impacted by all the matters referred to above.
19. The sentence that I impose on each of the defendants is a fine of VT 50,000 on each charge. Each must therefore pay a total of VT 150,000 within 21 days.
20. The defendants have 14 days to appeal this sentence if either disagrees with it.

Dated at Port Vila this 25th day of June 2020  
BY THE COURT

  
Justice G.A. Andrée Wiltens

