

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

**Criminal**  
**Case No. 20/2227 SC/CRML**

**PUBLIC PROSECUTOR**

**v**

**DAVID MILTON OLUL**

*Date:* 30 October 2020  
*Before:* Justice V.M. Trief  
*Counsel:* Public Prosecutor – Ms J. Tete  
Defendant – Mrs K.B. Karu

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**SENTENCE**

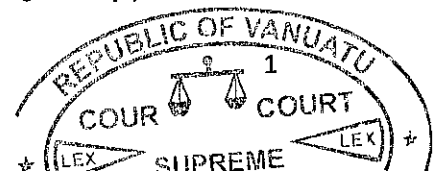
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A. Introduction

1. Mr Olul pleaded guilty to charges of unlawful entry, theft (2 charges) and escape from lawful custody.

B. Facts

2. On 15 April 2020, Mr Olul went to a store at Bladiniere Area, Port Vila and told the cashier that he was selling a tablet. The cashier left the store to ask his family members if they were interested in buying a tablet. On his return to the store with a family member, they saw that Mr Olul was hiding something under his shirt. They thought it was the tablet. They found out later that it was the container containing the store monies – VT6,000 and some coins.
3. Mr Olul was arrested later that day and detained at the Police station. During the night, he escaped from custody.
4. At around 1.30pm on 24 May 2020, a witness saw Mr Olul leaving Chitra Thapa's house at Tropicana area, Port Vila carrying a shopping bag. The witness went to Mr Thapa's house and woke him up. They checked for Mr Olul but he had already left. They discovered that Mr Olul had stolen VT10,000, a iPhone, a Samsung Galaxy phone, a HP



laptop, an external drive, JBL headphones, a dozen eggs, orange juice, fruit juice, 3 cans of Sprite, a can of Orange Fanta, 2 packets of chicken wings and 3 apples.

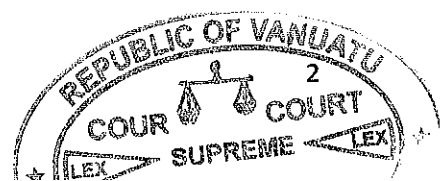
5. Mr Olul had entered the house by forcing the verandah door open with a piece of wood.
6. The next day, Mr Thapa tracked the location of his iPhone to the area behind Pacific Supplies. He informed the Police who attended there. The Police recovered all the items except for the VT10,000 cash and the JBL headphones.

#### C. Discussion

7. The maximum penalties are:
  - Unlawfully entering a dwelling house – 20 years imprisonment;
  - Theft – 12 years imprisonment; and
  - Escape from lawful custody – 5 years imprisonment.
8. There are a number of aggravating factors to the offending – first, the repeated nature of the offending, within a 6-week period. Secondly, Mr Olul unlawfully entered Mr Thapa's house and stole items while Mr Thapa was asleep in the house. Thirdly, Mr Olul escaped from Police custody and then went on to again commit dishonesty offending.
9. In mitigation, all but two items of Mr Thapa's property were recovered.
10. Mr Olul has no prior convictions. He is still relatively young, being 20 years old. He apologised to Mr Thapa at the Police Station. Mr Thapa is stated to have forgiven Mr Olul and wished that Mr Olul be given a second chance. Mr Olul presented as remorseful to the pre-sentence report writer, shedding tears for his offending. He is well supported by his parents and family. Mr Olul has been remanded in custody since 25 May 2020. He consequently missed the birth of his first child.
11. Mr Olul's youth and lack of prior criminal history mean that he has very good prospects of reform and rehabilitation. Imprisonment on this young first offender with the inevitable consequence of exposing him to long term hardened criminals is counter-productive and inappropriate. As it is, Mr Olul has already spent over 5 months in custody which is said to have had a very sobering effect of him and he is eager to return to his family and community, and stay away from further offending so that he can be a good father to his baby son. Mr Olul has ambitions to join the RSE scheme when he turns 21 years old as required by the Labour rules for the scheme.

#### D. End Sentence

12. Taking the above matters into account, the end sentence that I impose on Mr Olul pursuant to section 56 of the *Penal Code* is to order Mr Olul to come up again before the Court for sentence if called upon within a period of 12 months. Accordingly, there is no




sentence imposed for the offences at this stage – and indeed, if Mr Olul does not reoffend in any way in the next 12 months he will not be sentenced for this offending.

13. However, if Mr Olul does re-offend in any manner, he will be called up to be sentenced for these offences which will take into account the period from 25 May-30 October 2020 spent in custody – as well as any other sentence he may receive. I consider that this will serve as a warning to deter Mr Olul and others from acting in this manner in future. If I had not opted for the sentence under s. 56 particularly given Mr Olul's prospects for reform and rehabilitation, I had considered a global sentence start point of 24 months imprisonment. I trust Mr Olul will make the most of the opportunity given him by the Court today.

14. I order Mr Olul's immediate release from custody.

15. Mr Olul has 14 days to appeal this sentence if he does not agree with it.

**DATED at Port Vila this 30<sup>th</sup> day of October 2020  
BY THE COURT**

  
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Viran Molisa Trief  
Judge

