

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

**Criminal
Case No. 20/695 SC/CRML**

BETWEEN: Public Prosecutor

**AND: John Enock
Defendant**

Coram: *Justice Aru*

Counsel: *Ms. M. Taiki for the Public Prosecutor
Mrs. P. Malites for the Defendant*

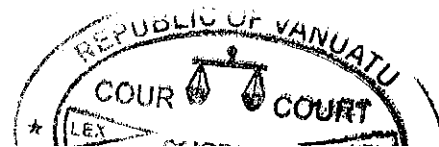
SENTENCE

Introduction

1. Mr Enoch you were charged with one count of unlawful entry of a dwelling house and one count of theft. The offence of unlawful entry of a dwelling house is punishable by imprisonment for a period of up to 20 years imprisonment where the house is used for human habitation. Theft is also punishable by imprisonment for up to 12 years.
2. On 22 April 2020 you pleaded guilty to both charges. Accordingly you are convicted as charged.

The facts

3. The facts are as set in the prosecution summary of facts and are not disputed. On the evening of 29 September 2019 at Luganville Santo, you entered the complainant's house and stole a cash box containing cash. During that time, the complainant was in the house watching television.
4. You entered the house by climbing through an open window and went inside the complainant's bedroom where you saw the cash box and took it with you. Inside the cash box was an amount of cash in the sum of VT1.3 million. The very next day the complainant found out that the cash box was missing. It was only discovered when the Police received a phone call from a family member of yours that you were drunk and distributing large amounts of cash. When you were arrested the Police recovered some of the cash in the sum of VT501, 300 which you had on you. Under caution, you admitted to the Police that you took the cash box with the money inside and used it to



pay for your airfares to Vila, accommodation in a motel and shared some of the money with your relatives although you were unemployed at that time. Some of the money was used to buy alcohol.

Aggravating factors

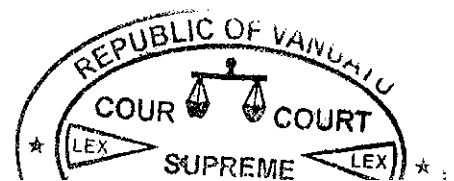
5. The offending is aggravated by a number factors. There is some degree of planning as the offending occurred at night and the amount of money taken and misused was substantial. You also had no authorisation to enter the house.
6. In determination the correct starting point of your sentence, the prosecution submits that 5 to 6 years imprisonment is appropriate given that you broke into the house and stole a large sum of money. On the other hand I note that almost half of the amount taken was recovered and there is no sophistication to your offending. The open window presented an opportunity which you used to gain access to the house. For this type of cases, I accept that your offending is not at the higher end of the scale.
7. The lead offence is unlawful entry therefore the starting point of your sentence is 4 years imprisonment.

Personal factors

8. Your pre-sentence report states that you are 25 years old and completed your education at year 12 at the Lycee LAB in Port Vila and could not continue due to financial difficulties. You are a member of the seventh day Adventist church and relate well with your community and families. You told your probation officer that you have gardening skills and hope that one day you will participate in seasonal work in Australia and New Zealand.
9. Mrs Maries Louis Fare the defendant's mother and Mrs Anita Raptick whom he regards as smol mama told the probation officer that the defendant is a person with special needs as he would often sleep outdoors or anywhere. Although there is no medical confirmation, the probation officer after speaking with the defendant said he seemed to be suffering from an illness.
10. You are also a young man and a first time offender and for that your sentence is reduced to 3 years imprisonment.

Guilty plea

11. You admitted the offending to the Police upon your arrest and also entered guilty pleas when called to take your plea. I accept that your guilty plea was entered at the first available opportunity therefore you are entitled to the full one third discount.



End Sentence

12. For the charge of unlawful entry you are sentenced to a term rounded off to 1 year imprisonment. On the charge of theft you are sentenced to 6 months imprisonment and is to be served concurrently.

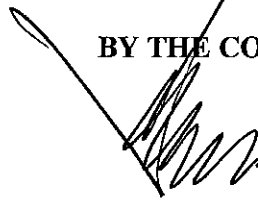
Suspension

13. Defence Counsel submitted that the sentence be suspended. Considering the requirements of s.57 of the Penal Code, I am of the view that the circumstances of this case warrant a non-custodial sentence therefore your sentence is suspended for a period of 2 years and you will perform 50 hours of community work.

14. You have 14 days to appeal if you are not happy with the decision.

DATED at Port Vila this 5th day of June, 2020

BY THE COURT



D. Aru
Judge

