

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

Criminal  
Case No. 20/3062 SC/CRML

PUBLIC PROSECUTOR

V

JOHN BUNE

ABEL POSLOCK

BELTEN POSLOCK

JAY BASIL

THOMSON WAILOLO

DAVID AKUNA

PUAL SILWO

JOHNNY SILWO

ROBERT RAUPEPA

MAXIM RAUPEPA

KAVIN JARRY

JEAN JERRY

RAY BUNE

KALO BUNE

JEAN PUAL

Defendants

**Coram:** Justice O. Saksak

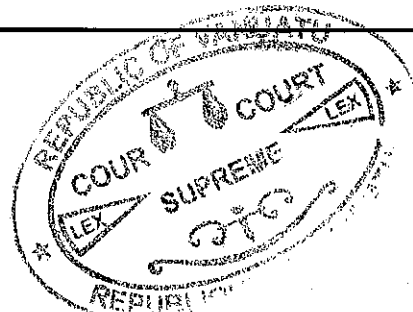
**Counsel:** Mr Damien Boe for the Public Prosecutor  
Mr Nigel Morrison for the Defendants

**Date of Plea:** 8<sup>th</sup> March 2021  
**Date of Sentence:** 13<sup>th</sup> August 2021

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SENTENCE

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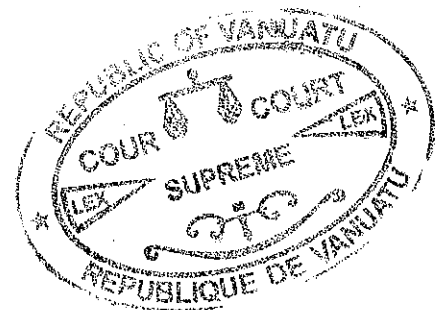


## Introduction

1. These 15 defendants namely John Bune, Abel Poslock, Belten Poslock, Jay Basil. Thompson Wailolo, David Akuna, Pual Sulwo, Robert Raupepa, Maxim Raupepa, Kavin Jerry, Jean Jerry, Ray Bune, Kalo Bune and Jean Pual were jointly, charged with unlawful assembly, section 69 (Count 1) and with riot (Count 1), section 70 of the Penal Code Act [Cap. 135].
2. When the charges were amended all the 15 defendants pleaded guilty.
3. Sentence was adjourned pending the filing of pre-sentence reports by the Probation Service and written submissions as to sentence by Prosecution and defence counsel.
4. Pre-sentence reports were filed in March and April. Prosecution filed its submissions on 29 April and defence filed its submission on 26 May 2021.

## Facts

5. On 17 June 2020 at Funataribu village, Big Bay, Santo the defendants assembled together. They then planned and intended to go to Funataribu village and assault the complainants.
6. They went to the village with stones, knives, spears, axes, sling and stones and wood led by their chief John Bune.
7. They approached the village in a riotous and violent manner shouting and causing fears and panic on the women and children of the village who escaped to take refuge in other villages.
8. The defendants then attacked and abused the complainants and caused them bodily injuries. They also lost items such as money, cooking pots, grass-cutters, mobile phones, solar panels, inverters and clothes. They also set fire to buildings made of local bush materials.
9. Police were alerted and arrived in the afternoon. They brought the victims to the hospital. They were confronted by the defendants but were arrested and charged initially with 8 counts of unlawful assembly, riots, intentional assault, theft (3 counts) and obstructing police (x2 counts). The Police found a knife (30 cm), an axe (53 cm), a spear (126 cm) and a carved wood (115 cm).
10. Initially the defendants pleaded not guilty to all the charges. It was only after the charges were amended removing 6 charges of intentional assault, theft and obstruction of Police, did the defendants plead guilty to unlawful assembly and riot.



### **Maximum Penalties**

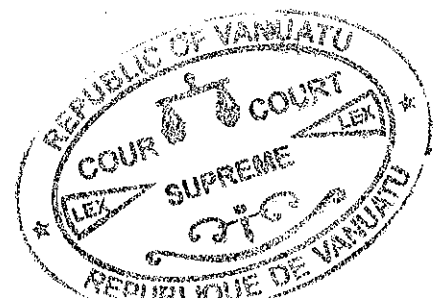
11. The maximum penalty for unlawful assembly is 3 years imprisonment and riot carries the maximum penalty of 10 years imprisonment.

### **Aggravating Factors**

12. The defendants assembled together with intention to commit the offences. They acted in a joint enterprise. They were armed with weapons such as stones, wood, spears, knives, axes, slings and stones. They acted violently and riotously. They caused fear in the lives of innocent women and children who fled to take refuge in other villages. They were displaced from their ordinary place of residence. They lost personal properties such as money, mobile phones, cooking utensils, solar panels etc. They assaulted some victims. They burned down shelters. They were abusive. They had planned their actions. They caused losses and inflicted injuries to innocent victims.
13. The defendants had taken the law into their own hands.
14. The only explanation given by the defendants is that they went into the victims village in peace with intention to enquire and resolve the issue of missing kava. And that they followed their chief to ensure his security. It was only when they were attacked that they retaliated in return.
15. The course taken by the chief and the defendants was irresponsible and unwise. Any allegation of missing kava should have been reported to the Police to investigate. When the chief and the defendants approached the village of the victims with stones, slings, knives, axes, wood and spears it could hardly be said they had approached with peace, as indeed one could not resolve sensitive issues such as theft of kava with such weapons. There was uncertainty as to who of the victims in the village was responsible for the missing kava.
16. There were therefore no mitigating circumstances warranting the commission of these offences except that in the course of committing the offences the defendants themselves, or some of them were injured in return.

### **Start Sentence**

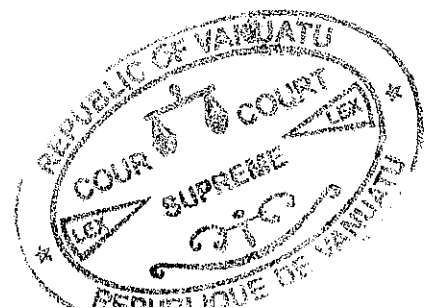
17. Taking all the factors together i.e. the seriousness of the offences committed, the aggravating features and the injuries sustained by the defendants or some of them, I set the starting sentences as follows:-
  - a) Chief John Bune as leader of the group – for unlawful assembly, 2 years imprisonment concurrent and for riot, 4 years imprisonment.



b) For the remaining 14 defendants, each is sentenced to 1 year imprisonment for unlawful assembly and 2 years imprisonment for riot. These sentences are concurrent.

### Mitigation

18. In mitigation I accept their guilty pleas at earliest opportunity. They are all entitled to 1/3 reduction for this factor.
19. They have all spent some times in custody on remand awaiting their charges. They have been granted bail and have abided with bail conditions. I note their pre-sentence reports indicating they are all simple village people. They are remorseful and have regretted their actions. Some of them are young offenders and some have promised not to re-offend. They are all first time offenders with no previous criminal convictions.
20. John Bune's start sentence for unlawful assembly of 2 years imprisonment is reduced by 1/3 for guilty plea to 1 year and 4 months. 4 months are further deducted for his other mitigating factors leaving the balance at 1 year imprisonment to be served concurrently with his sentence for riot. For riot his start sentence of 4 years imprisonment is reduced by 1/3 for guilty plea leaving the balance at 2 years and 8 months. 8 months are further deducted for his other mitigating factors leaving the balance imprisonment sentence for riot to be 2 years imprisonment. His total concurrent sentence for the two offences shall therefore be 2 years imprisonment, suspended for 2 years suspended for 2 years– section 57 of the Penal Code Act [Cap. 135].
21. For the remaining 14 defendants –
  - (a) Abel Poslock – Unlawful Assembly: 1 year imprisonment less 1/3 for guilty plea leaving 8 months imprisonment. For riot, 2 years imprisonment less 1/3 for guilty plea leaving 1 year and 4 months, less 4 months for other mitigating factors. The end sentence shall be 1 year imprisonment. His total concurrent sentence shall be 1 year imprisonment – section 57.
  - (b) Belten Poslock – the same. Unlawful assembly, 8 months imprisonment, concurrent. Riot, 1 year imprisonment, suspended for 2 years – section 57.
  - (c) Jay Basil – the same. Unlawful assembly, 8 months imprisonment concurrent. Riot, 1 year imprisonment, suspended for 2 years – section 57.
  - (d) Thompson Wailolo – the same. Unlawful assembly, 8 months imprisonment. Riot, 1 year imprisonment concurrent, suspended for 2 years.
  - (e) David Akuna – the same. Unlawful assembly, 8 months imprisonment. Riot, 1 year imprisonment concurrent suspended for 2 years – section 57.
  - (f) Pual Silwo – Unlawful assembly, 8 months imprisonment concurrent. Riot, 1 year imprisonment, suspended for 2 years – section 57.



- (g) Johnny Silwo – Unlawful assembly, 8 months imprisonment concurrent. Riot, 1 year imprisonment, suspended for 2 years – section 57.
- (h) Robert Raupepa – Unlawful assembly, 8 months imprisonment concurrent. Riot, 1 year imprisonment suspended for 2 years – section 57.
- (i) Maxim Raupepa – Unlawful assembly, 8 months imprisonment concurrent. Riot, 1 year imprisonment suspended for 2 years – section 57.
- (j) Kavin Jerry – Unlawful assembly, 8 months imprisonment concurrent. Riot, 1 year imprisonment suspended for 2 years – section 57.
- (k) Jean Jerry – Unlawful assembly, 8 months imprisonment concurrent. Riot, 1 year imprisonment suspended for 2 years – section 57.
- (l) Ray Bune – Unlawful assembly, 8 months imprisonment concurrent. Riot, 1 year imprisonment suspended for 2 years – section 57.
- (m) Kalo Bune – Unlawful assembly, 8 months imprisonment concurrent. Riot, 1 year imprisonment suspended for 2 year – section 57.
- (n) Jean Pual – Unlawful assembly, 8 months imprisonment concurrent. Riot, 1 year imprisonment suspended for 2 years – section 57.

**Suspended Sentences**

- 22. All sentences are suspended under section 57 of the Act on good behavior. This means the defendants must keep the peace and must not reoffend in a period of 2 years. If they do and are charged and convicted, they will serve their prison sentences as imposed today.
- 23. The Court will not impose any other types of alternative sentences as proposed by Probation. The circumstances surrounding their offending do not warrant such a course.

**Right of Appeal**

- 24. The defendants may appeal their sentences within 14 days if they disagree with them.

**DATED at Port Vila, this 13<sup>th</sup> August, 2021**

**BY THE COURT**

  
**Oliver.A.Saksak**  
**Judge**

