

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

Criminal
Case No. 23/2213 SC/CRML

PUBLIC PROSECUTOR

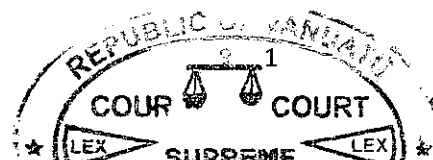
v

VUGUTA VARI

Date: 4 September 2023
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr G. Simeon
Defendant – Mr J. Garae

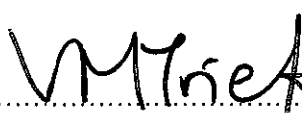
SENTENCE

1. Mr Vari pleaded guilty to arson contrary to subs. 134(1) of the *Penal Code* [CAP. 135]. He is accordingly convicted on his own plea and the admitted facts.
2. In the morning on 18 January 2020 at Tanavoli village, South Santo, Mr Vari went to the complainant Fred Garae's house and set fire to a building under construction belonging to Mr Garae. No one was at home when Mr Vari set fire to the building. Some witnesses saw him do so. The construction cost of the building was VT200,000 as it consisted for 4 x 4 timbers and concrete and the damage was to the thatch roofing which had cost VT20,000.
3. Mr Vari admitted the offending to the Police.
4. The maximum penalty for this offence is 10 years imprisonment.
5. The offending is aggravating by it being unprovoked although it is stated to be the result of a land dispute, there was a degree of premeditation and breach of trust.
6. It is mitigating that Mr Vari ensured that there was no one inside the building when he started the fire.
7. I adopt a sentence start point of 2 years imprisonment as appropriate for this offending and for Mr Vari's criminal culpability.



8. I reduce the sentence start point by one-third for Mr Vari's early guilty plea.
9. Mr Vari is 29 years old, of Araki island, and married with 5 children. The eldest is in year 6. He is a year 6 leaver. He has been a representative in Chief council meetings, is a member of the school committee and is a deacon in the Presbyterian Church. He makes a living from fishing. He has no previous convictions. He spent 24 hours in a police cell.
10. Mr Vari performed a custom reconciliation ceremony with the complainant involving VT30,000 cash, a pig, a mat and a head of kava which was accepted. Mr Vari is stated to be remorseful. The complainant has written a letter stating that his relationship with Mr Vari has been fully restored and they have a good relationship. I deduct a further 15% for Mr Vari's personal factors which comes to just over 45% therefore round up the total deduction to half of the sentence start point.
11. The end sentence imposed is 1 year imprisonment. This sentence is to deter Mr Vari and others from such offending, to denounce such criminal conduct, to protect the community and to hold Mr Vari accountable for his offending.
12. The Court has a discretion under s. 57 of the *Penal Code* to suspend all or part of the sentence where it is not appropriate to make an offender suffer immediate imprisonment "... (i) in view of the circumstances; and (ii) in particular the nature of the crime; and (iii) the character of the offender."
13. The seriousness of the offending counts against suspension of sentence. However, in view of Mr Vari's family and community support, his strong participation in the community, his prior clean record, strong prospects for rehabilitation and the 3-year delay, I consider that it is not appropriate to make Mr Vari suffer immediate imprisonment. The sentence is suspended on the condition that Mr Vari commits no further offence within the next 2 years.
14. In addition, Mr Vari is sentenced to complete 100 hours of community work.
15. Mr Vari has 14 days to appeal the sentence.

**DATED at Port Vila this 4th day of September 2023
BY THE COURT**


Justice Viran Molisa Trief

