

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

**Criminal**  
**Case No. 23/3048 SC/CRML**

**PUBLIC PROSECUTOR**

**v**

**ALFRED BULE MOLSIR**

*Date:* 6 March 2024  
*Before:* Justice V.M. Trief  
*Counsel:* Public Prosecutor – Mr J. Aru  
Defendants – Mr B. Livo

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**SENTENCE**

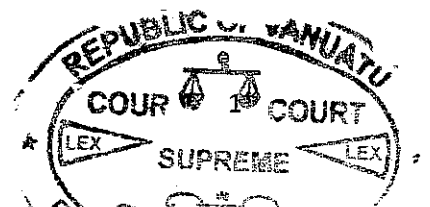
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A. Introduction

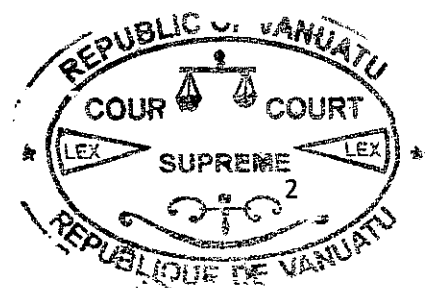
1. The Defendant Alfred Bule Molsir pleaded guilty to unlawfully entering a non-dwelling house (Charge 1), theft (Charge 2), threatening language (Charge 3), unlawful entering a dwelling house (Charge 4) and criminal trespass (Charge 5). Mr Molsir is convicted on his own pleas and the admitted facts.

B. Facts

2. On 25 January 2023, Mr Molsir entered the premises of Ta'Tacos Restaurant at George Pompidou area, Port Vila with intent to commit theft. He broke a timber wall of the restaurant to gain entry into the building (Charge 1). He fraudulently and without a claim of right took and carried away a cash box and 3 packages of minced meat belonging to Ta'Tacos Restaurant. At the time he took those items, he intended to permanently deprive Ta'Tacos Restaurant of those items (Charge 2). On the same day, the Police caught Mr Molsir at the Stade area roundabout near La Casa building in possession of a cash box and the 3 packages of minced meat. They arrested Mr Molsir and brought him into custody.
3. Mr Molsir admitted his offending when interviewed by the Police on 25 January 2023.

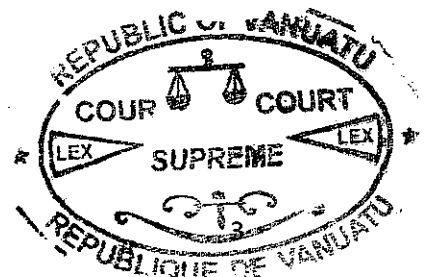


4. On 6 July 2023, Mr Molsir was granted bail and released from custody.
5. Mr Molsir did not attend 3 consecutive Court hearings hence on 11 September 2023, his bail was purportedly revoked (as this should only be done in the presence of the defendant) and a warrant issued for his arrest.
6. On 17 September 2023 afternoon, Linda Willie was at home at Joint Court area. Mr Molsir entered the yard and spoke with Linda, asking about the whereabouts of Jane Alatoa, who lives in the same yard, wanting to know where she was and what room she slept in.
7. On 19 September 2023, Jane Alatoa, Judith Alatoa and Linda Willie were returning home to Joint Court area from the shops. Mr Molsir approached them near Vansec House. He was carrying a big knife. He swore at them, saying "fuck". Judith and Linda were scared and hid inside the Catholic Church compound. Mr Molsir ran towards Jane and told her to follow him. Judith and Linda ran back home. Jane ran along a different path to escape from Mr Molsir. He followed her and only gave up the chase once she was near her home at Joint Court (Charge 3).
8. On 21 September 2023 afternoon, Linda was at a kava bar near the VNPF building. Mr Molsir was also at the bar at the time. He asked Linda where Jane Alatoa was. She made up some lies to put off Mr Molsir as he kept persistently asking questions about Jane's whereabouts.
9. On 24 September 2023, at around 2.30am, Mr Molsir entered Limel Daniele Ramwell's dwelling house at Joint Court area. He gained entry into the home by removing 3 louvres from the front yard window then entering through the gap (Charge 4).
10. Mr Molsir had a 1.5 litre plastic bottle full of kerosene with him. He rummaged through the house. Jane Alatoa was awake at the time and left her dwelling unit and went to Mrs Ramwell's house, both of which are in the same yard at Joint Court area. Jane saw Mr Molsir in the house, startling Mr Molsir. Jane was frightened of Mr Molsir and instantly ran away and alerted other family members. Mr Molsir left the yard before the other relatives arrived. He left the plastic bottle of kerosene near the main door of the house when he left (Charge 5).
11. On 29 September 2023, Mr Molsir was arrested and remanded in custody.
12. Mr Molsir admitted his offending as to Charges 4 and 5 when interviewed by the Police on 29 September 2023.



C. Sentence Start Point

13. The sentence start point is assessed having regard to the maximum sentences available, and the mitigating and aggravating factors of the offending.
14. The maximum sentences prescribed in the *Penal Code* [CAP. 135] are:
  - a. Unlawful entry of dwelling house – 20 years imprisonment (subs. 143(1));
  - b. Theft – 12 years imprisonment (s. 125(a));
  - c. Unlawful entry of non-dwelling house – 10 years imprisonment (subs. 143(1));
  - d. Threatening language – 3 years imprisonment (subs. 114A); and
  - e. Criminal trespass – 1 year imprisonment (subs. 144).
15. The mitigating factor is that the stolen items were recovered and returned to the owner.
16. The aggravating factors of the offending in January 2023 at the George Pompidou area are as follows:
  - The offending was planned and premeditated;
  - The offender took multiple items;
  - The offender caused damage to the victim's property; and
  - The offending was committed at night.
17. The factors set out above require a global sentence start point of 20 months imprisonment for the unlawful entry of a non-dwelling house and theft.
18. The aggravating factors of the offending in September 2023 at the Joint Court area are as follows:
  - The offending was planned and premeditated;
  - The offender used a big knife as a weapon to deliver the threat against the three female victims; and
  - The offending of unlawful entry of a dwelling house and criminal trespass was committed at night and whilst the house was occupied;
  - The offender caused damage to the victim's property;
  - The repeat nature of the offending; and



- The offending was committed whilst the defendant was on bail.
19. The factors set out above require a global sentence start point of 24 months imprisonment for the unlawful entry of a dwelling house, threatening language and criminal trespass.
  20. Mr Molsir has previous convictions from 2021 for theft (one charge) and domestic violence (two charges) in Magistrates' Court Criminal Case No. 21/2669. He was sentenced to 14 months imprisonment and released on parole on 29 August 2022. His sentence whilst on parole ended on 3 January 2023 then on 25 January 2023, he committed the first of the offending the subject of the present proceedings. A month is added to the sentence start points for the previous convictions.
  21. Mr Livo withdrew his submission in the Defendant's sentencing submissions that Mr Molsir was a first-time offender. Mr Livo accepted that Mr Molsir had previous convictions.

D. Mitigation

22. Mr Molsir pleaded guilty at the first opportunity however he had little option but to do given the strength of the Prosecution case. Accordingly, 25% is deducted from the sentence start points.
23. Mr Molsir is 22 years old. He lives with his parents at Fresh Water 3 area in Port Vila. He has a secondary school certificate but could not continue with his education due to his poor mental health. He is unemployed and entirely dependent on his parents.
24. The report dated 12 December 2023 from Dr Obed Jimmy, psychiatrist at the Vila Central Hospital states as follows:

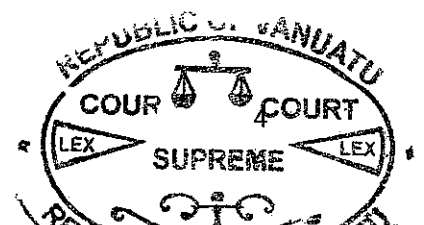
*[Mr Molsir] has been reviewed over a period of time at the Correctional Facility. He has a background history of substance-induced psychosis – where he becomes psychotic when he uses substances. He is on antipsychotic medications for his illness, however he is non-adherent to his medications and has no insight into the effect of substance use on his mental wellbeing. As it is, the MindCare Team does not have the necessary legal right to involuntary administer medications which could mean that [Mr Molsir] could frequent the legal system.*

*Based on our most recent assessment of [Mr Molsir], he is noted to be more coherent with significantly reduced psychotic symptoms. Therefore, he is able to stand trial.*

25. Two months are deducted for Mr Molsir's personal factors.

E. End Sentence

26. Taking all matters into account, the following end sentences are imposed and are back-dated to commence from 1 April 2023 given the time that Mr Molsir has already served in custody (from 25 January 2023 to 6 July 2023, and then from 29 September



2023 to the present date), with the sentences for Charges 1 and 2 (related to the January 2023 offending) to be served concurrently, and then on expiry of the sentence for Charge 1, followed by the sentences for Charges 3-5 (related to the September 2023 offending) which latter three sentences are to be served concurrently:

- i) Unlawful entry of non-dwelling house (Charge 1) 1 year 2 months imprisonment; and
- ii) Theft (Charge 2) 1 year 1 month imprisonment.
- iii) Unlawful entry of dwelling house (Charge 4) 1 year 5 months imprisonment;
- iv) Threatening language (Charge 3) 1 year imprisonment; and
- v) Criminal trespass (Charge 5) 6 months imprisonment.

F. Suspension of Sentence

27. 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."
28. I turn now to the circumstances and the nature of the crime. The seriousness of the offending counts against suspension of the sentences. The offending was committed in central Port Vila and targeted both a dwelling house and non-dwelling house for unlawful entry. It also targeted a vulnerable young woman who the Prosecution submitted that Mr Molsir was attracted to. As to the character of the offender, Mr Molsir has previous convictions yet has not learnt from that experience, committing the further offending which is the subject of the present matter. He suffers from substance-induced mental illness yet is non-adherent to his medications and has no insight into the effect of substance use on his mental wellbeing. The protection of the community and deterring Mr Molsir from offending is better served by his serving his sentences of imprisonment and continuing to receive medical treatment from the hospital MindCare team whilst in custody. In the circumstances, I decline to exercise the Court's discretion to suspend the sentences.
29. Mr Molsir has 14 days to appeal.

**DATED at Port Vila this 6<sup>th</sup> day of March 2024  
BY THE COURT**

  
Justice Viran Molisa Trief

