

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

Cr. Case No. 12 of 2017

**PUBLIC PROSECUTOR**

**-v-**

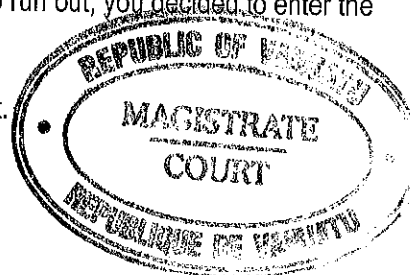
**TASSO LUI ROBERT**  
**SAM PAKOA**  
**MOISE JOE**

*Coram: Moses Peter*

*Appearances: Pjilip Toaliu for the State*  
*Harrison Rantes for Defendants*  
*Defendants appear in Person*

**SENTENCING**

1. On 15<sup>th</sup> September 2017, Mr. Rantes submitted each of your guilty pleas on the charge of Criminal Trespass contrary to section 144 (a) of the Penal Code Act [CAP 135].
2. Today you appear for sentencing on the charge after time was allocated for sentencing submissions to be filed by both counsels.
3. The Complainant is Lily Nicholls who appeared to own the shop called Inomakas Store at No. 3 Area, Port Vila. She alleged you have all entered the premises of the store. A witness namely Francis Mackenzie who is a security officer in the shop confirmed on the early hours on Tuesday 26 July 2016, he and his colleague security guard found you inside Inomakas Store. Moise Joe was the first to escape when the guards arrived while Sam Pako was busy removing timbers. Tasso Lui Robert, you are on the top of the roof. Moise Joe and Sam Pako escaped as they heard the Security Guards calling the Police.
4. You were all cautioned by Police officer Oline Reuben about the alleged offence. You admitted the allegations and said you had few drinks and that as you are about to run out, you decided to enter the store and take more but the guards saw you so you all run away.
5. The maximum penalty for Criminal Trespass is 1-year imprisonment.



6. In considering and assessing your appropriate punishment, the Court has been assisted by the cases submitted by the Public Prosecutor in the case of Public Prosecutor v Andy [2011] VUCA 14 which sets out the sentencing guideline which the court will follow when passing a sentence on the defendant.
7. I have not had the benefit of a presentence report filed by the Probation Officer in the Correctional Services Department, but have been assisted by the submission from your legal counsel about circumstances of your offending and personal particulars.
8. The aggravating factors taken into account are:
  - o The offence is serious as reflected in the penalty stipulated in the law which is 1-year imprisonment.
  - o There was joint criminal enterprise involved as you all partnered together in the offending.
  - o There was a degree of premeditating as your actions clearly reflects that.
  - o The offending occurred in the early hours of the morning when the owner of the said store is not around.
9. For your sentence, I set a starting point of 6 months' imprisonment for offence of Criminal Trespass contrary to section 144 of the Penal Code Act [CAP 135].
10. The mitigating factors taken into account from your counsel's submission were that:

For Tasso Lui Robert

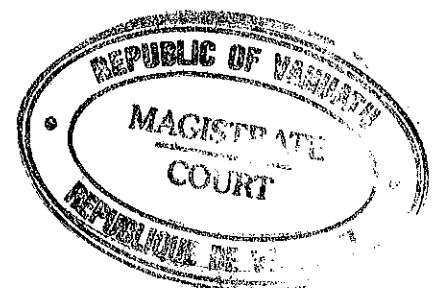
- o You are 28 years' old
- o You are first time offender
- o You are employed at Azure Pure Water
- o You cooperated well with the Police during investigation
- o You pleaded guilty at first given opportunity.

For Sam Pako

- o You are 25 years' old
- o You are unemployed
- o You are a first time offender
- o You cooperated well with the Police during investigation
- o You pleaded guilty at first given opportunity.

For Moise Joe

- o You are 19-years old
- o You are a first time offender
- o You are unemployed
- o You cooperated well with the Police during investigation.



11. You are entitled to one third reduction of the sentence because of your guilty plea and that is 8 weeks' reduction which now leaves you with 16 weeks' imprisonment. I deduct another 4 weeks for your expression of remorse.
12. You are left with a balance of 12 weeks of imprisonment.
13. I have considered the nature of your offending and balancing it with your personal particulars, I accepted to suspend your sentence for 12 months and in event that you are further convicted for any other offences, this sentence will automatically be activated and you will serve the full sentence together with any other sentences imposed on you for your reoffending.
14. In addition to the suspended prison sentence I order that each of you pays a fine of VT 15,000 each.
15. The fines must be paid within 15 days' failure of which will render the suspended sentence activated.
16. You have 14 days to appeal to the Supreme Court if you are not satisfied with this sentence.

DATED at Port Vila this 17<sup>th</sup> day of October 2017

BY THE COURT



MOSES PETER  
Senior Magistrate

