

PUBLIC PROSECUTOR

V

JACKSON PHILIP WILFRED

JOJO TALI

JUNIOR TAWARI

*In Attendance: Mr. Solomon Asang for the State
Ms. Akineti Yeeon for the defendants*

SENTENCE

A. Introduction

1. The defendants namely Jackson Philip Wilfred, Jojo Tali and Junior Tawari all pleaded guilty on the charges of unlawful entry and theft.
2. They are accordingly convicted as charged.

B. Facts

3. The complainant is the security of Sunshine shop in Luganville.
4. He filed a complaint in the Police in Luganville that the some unkown persons had intruded the shop on the night of 8 May 2023.
5. At around 9.00 pm he was conducting normal checks around the vicinity of the shop and whilst doing so, he noticed that someone had left the entrance to the back end of the shop.
6. The Police officers then attended the shop the next day and found out that the shop keepers had forgotten to lock the door of the shop.

7. The Police Officers upon viewing the surveillance camera footage of the building identified the defendants as the culprits.
8. The items reported to have been stolen by the defendants were VT 30,000 cash, Digicel and Vodafone credit cards, alcoholic beverages, a mobile phone, a tablet device, memory card, earpiece, roll of calico linen and jewelries.
9. The defendants were arrested, cautioned and made admission to the Police about their offending.

C. Sentence starting point

10. The maximum penalty of unlawful entry is 10 years imprisonment and for theft- 12 years imprisonment.
11. There are no mitigating aspects of the offending. The aggravating factors are:
 - There was some degrees of planning.
 - Offending occurred at night.
 - Cause of loss to the complainant as the items stolen were not recovered.
 - Joint enterprise as the defendants grouped together to commit the offences.
12. In considering the aggravating factor, I set a starting point in a global scale of 2 years imprisonment.

D. Deductions for Guilty Plea

13. The defendants pleaded guilty at first opportunity.
14. They are therefore entitled to one-third reduction of their starting sentence, which is 8 months.

E. Personal Factor

For Jackson Philip Wilfred:

- He is 37 years of age.
- He resides at Monix Hill with his wife and children.

- He works as a farmer to sustain his wife and 6 children two of whom are attending school.
- He is a first time offender.
- He expressed remorse for his actions.
- He pleaded guilty at first given opportunity.
- He cooperated with the Police during investigation.
- He has been remanded in custody for 9 weeks and 4 days.

For Jojo Tali:

- He is 19 years of age.
- He currently lives with his de facto partner who is 2 months pregnant.
- He works as a builder in Luganville.
- Due to his parent's separation, he currently takes care of his disabled brother and younger brother.
- He is a first time offender.
- He expressed remorse for his actions.
- He pleaded guilty at first given opportunity.
- He cooperated with the Police during investigation.
- He supporting his family through his employment.
- He has been remanded in custody for 9 weeks and 4 days.

For Junior Tawari:

- He is 16 years of age
- He resides at Sarakata with his father and 6 siblings.
- He completed 7th grade of schooling at Kamewa.
- He did not pursue further studies due to his mother's passing.
- He assisted his father in taking care of his siblings.
- He is a first time offender.
- He expressed remorse for his actions.
- He cooperated with the Police during investigation.

For their personal factor, I make a further discount of 7 months.

F. End Sentence

15. The sentencing principles achievable in this case amongst others expressed in *Public Prosecutor v Vahirua* [2018] VUSC 15 are to hold you accountable for your conduct, to denounce your criminal conduct, to protect the community, to promote sense of responsibility for the harm done and to assist in your rehabilitation and re-integration.

16. Taking into account all matters in relation to all matters aggravating and mitigation personal to your offending, the end sentence imposed on your offending is 9 months imprisonment.
17. However, I accept that your sentence be suspended for 2 years after taking into account the submissions by your counsel that:
 - Jackson Philip Wilfred takes care of his wife and 6 children and has been remanded in custody for over 2 months
 - Jojo Tali takes care of his pregnant wife and has been remanded in custody for over 2 months
 - Junior Tawari is 16 years of age (s 54 of the Penal Code Act) and was arrested and brought before Court today.
18. This means you must not re-offend within 2 years. However, if you reoffend again within 2 years, this suspended sentence will be lifted and he will serve 9 months imprisonment together with any other sentences imposed on you for your re-offending.
19. In addition to your suspended sentence, I order 60 hours of Community work sentence on the defendant Junior Tawari and Supervision Order for 6 months).
20. He is to see the Probation Officer in the Correctional Department in 72 hours to discuss his community sentence work plan.
21. The Officer in charge of the Correctional Center in Luganville, is to release the defendants namely Jackson Philip Wilfred and Jojo Tali forthwith.

G. Appeal

22. You have 14 days to appeal to the Supreme Court if you are not satisfied with this sentence.

DATED at Luganville, this 21st day of May 2024

BY THE COURT

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MOSES PETER
Senior Magistrate