

PUBLIC PROSECUTOR

V

GLEN MALILI

*In Attendance: Ms. Sharon Allanson for the State
Ms. Akineti Yeeon for the defendant*

SENTENCE

A. Introduction

1. Mr. Glen Malili pleaded guilty on the charges of theft.
2. The charges of escaping lawful custody is withdrawn on the application of the Prosecutor.
3. He is therefore convicted after having conceded to the facts in respect to the charges of theft.

B. Facts

4. The complainant is Leisau Esau, a 37 year old residing at Latie village east of Santo.
5. She filed a report in the Police alleging that in the early morning hours of 28 February 2024 at Sunshine Shop located at Sarakata area whilst spending the night with her garden produce outside the vicinity of the shop, the defendant approached her and stole her mobile phone.
6. The phone is described as back Alcatel phone.

7. She woke up at around 4.00 am and found out that her mobile phone had been stolen.
8. On that same time, another market vendor also reported having her purse stolen with VT 500 note and some coins inside it.
9. The complainant reported the incident to the Sunshine Shop staff who went and check the surveillance camera and identified the defendant as the culprit.
10. The defendant was arrested and when cautioned he admitted his offending to the police.

C. Sentence starting point

11. The maximum penalty for theft is 12 years imprisonment.
12. There are no mitigating aspects of the offending. The aggravating factors are:
 - The offending was planned and occurred at night whilst the complainant was asleep.
 - Causing the complainant to suffer loss.
 - The complainant is considered vulnerable.
 - Defendant has previous convictions on similar offending.
1. In considering the aggravating factor, I set a starting point of 12 months imprisonment.

D. Deductions for Guilty Plea

13. The defendant pleaded guilty at first opportunity. He is therefore entitled to one-third reduction of his starting sentence which is 4 months.

E. Personal Factor

14. The defendant is 18 years of age.
15. He is the eldest between his two sisters.
16. He is from Malekula Island but residing in Santo.
17. He is currently living with his grandfather at Pepsi area.
18. His father had passed away and his mother is currently living in Port Vila.
19. He left school due to lack of parental support.
20. He sustains himself and his grandfather through gardening.

21. He expressed remorse for his actions.
22. He pleaded guilty at first given opportunity.
23. For his personal factor, I make a further discount of 3 months.

F. End Sentence

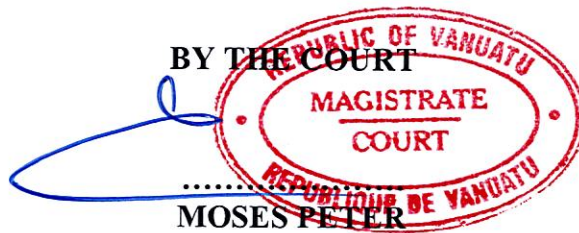
24. The sentencing principles achievable in this case amongst others expressed in *Public Prosecutor v Vahirua* [2018] VUSC 15 are to hold you accountable for your conduct, to denounce your criminal conduct, to protect the community, to promote sense of responsibility for the harm done and to assist in your rehabilitation and re-integration.
25. 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 5 months imprisonment.
26. I note from the submissions filed by your counsel concerning your pre-custodial period information whereby have spent 3 months and 15 days in custody.
27. I had the considerate view of the case of *Public Prosecutor v Sale* [2016] VUSC 83 where the Court considered the equivalence of pre custodial term and the custodial term with regard to parole eligibility of the defendant.
28. I am therefore satisfied that your pre custodial sentencing terms are suffice to have appropriately punish you for your offending.
29. You are now free to go.

G. Appeal

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

DATED at Luganville, this 19th day of June 2024

BY THE COURT



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MOSES PETER

Senior Magistrate