

PUBLIC PROSECUTOR -v- JOHN WAI

JUDGMENT

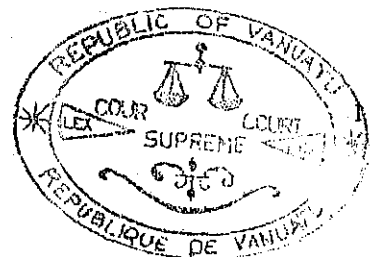
The defendant is a policeman. He was charged and pleaded guilty to two (2) charges of corruptly accepting bribes from Yoan J. Hua contrary to Section 73(1) of the Penal Code Act [CAP.135]. The maximum penalty imposed by law is 10 years imprisonment.

These were serious matters in the public administration of this young Republic. It must be reminded that public office brings great rewards but also carries great responsibilities. Those who cannot resist the temptation to profit personally from their positions have no place in public life and it is therefore quite right that your otherwise promising career is at an end.

The Court has a duty to see that you do not profit from your your crime, and to deter others from considering following your paths.

In general a term of immediate imprisonment is inevitable, save in exceptional circumstances or where the amount of money corruptly received is small. However, the Court should pass a sufficiently substantial term of imprisonment to mark publicly the gravity of the offence.

In the present case, the defendant served as a policeman since 1988 and worked as an operation officer in the Department of Immigration since 1992. He is married with 5 children. He accepted and received bribes from Yoan J. Hua totaling an amount of Vatu 20,000 (US\$100 on 6 March and 5,000 Vatu on 10 May 2001) for the processing of eight (8) residency permits to some Chinese nationals. The appropriate sentence to be imposed in a case such as this is 6 months imprisonment on each of these two charges concurrent if the defendant pleads not guilty. The defendant admitted the offence to his superior police officer and cooperated with the police. The defendant pleaded guilty to both charges and is remorseful. The actual sentence for the defendant is reduced to 3 months on both charges concurrent taking into account of the mitigating factors and of the guilty plea. The suspension of the sentence has been considered in line with the sentence imposed on the defendant Clarence Maraë by the

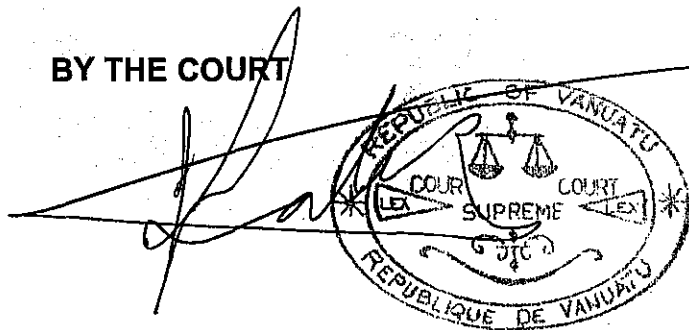


Supreme Court in Public Prosecutor -v- Wu Jonson T., Tien Jan and Clarence Marae, Criminal Case No. 10 of 1989.

Although in this case the amount is small, I am of the view that the suspension of the sentence is not appropriate. The reason being that the defendant is a police Inspector and as a police officer, his duty is to maintain and enforce to laws of this country at all times but not dishonestly breach them by involving himself, as he did, into corrupt practices. The defendant is sentenced to 3 months imprisonment on both counts concurrent. The defendant starts to serve his sentence today 27 July 2001. There is no order as to prosecution costs. The defendant has 14 days to appeal.

DATED at PORT-VILA, this 27th DAY of JULY, 2001

BY THE COURT



**LUNABEK Vincent
Chief Justice**