

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

VS.

**ROGATIEN TABISAP
JUSTINE TABISALSAL
ELVIS TABIAIRY
GISLAIN BULEURU
YANNICK TABISALSAL
DANIEL BULEBAN
CHRISTOPHE BULESAP**

**Mr Justice Oliver A. Saksak
Mrs Anita Vinabit – Clerk**

**Ms Kayleen Tavoa – Public Prosecutor
Mr Hillary Toa – Public Solicitor for the Defendants**

**Date of Plea and Sentence: Wednesday 12th July 2006 (at Melsisi, Central
Pentecost)**

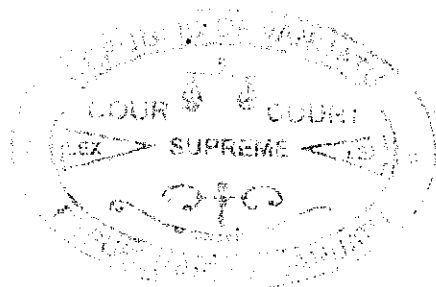
SENTENCE

Out of the seven defendants, only four were present and entered collective pleas on behalf of the three defendants who were not present in Court. These were, Yannick Tabisal, Daniel Buleban and Christophe Bulesap.

They were charged as follows:-

Count 1 – Inciting and soliciting arson against Rogatien and Justine Tabisalsal, contrary to sections 35 and 134(1) of the Penal Code Act (the Act). On the application of the Public Prosecutor this charge was withdrawn against Justine

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Tabisalsal. Rogatien Tabisap pleaded guilty to the charge.

Count 2 - Arson against Elvis Tabiairy contrary to section 134(1) of the Act. He pleaded guilty to the charge.

On the application of the Public Prosecutor, leave was granted to amend the charge to include Count 3: Aiding Arson against Gislain, Yannick, Daniel and Christophe contrary to sections 28 and 134(1) of the Act. Only Yannick and Gislain were present but they entered a collective plea on behalf of the other two defendants. They pleaded guilty.

The Court entered convictions against each of the defendants following their guilty pleas.

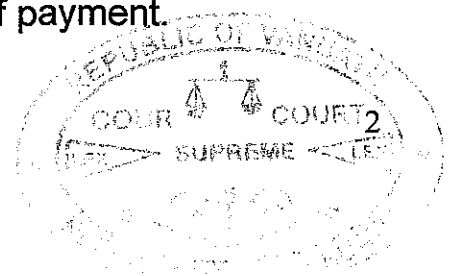
In considering sentence I took into account the particulars of the defendants and mitigating factors as submitted by Mr Toa. All the defendants were first time offenders. They acted not on their own initiatives but on the order of their chief Rogatien. He is a mature man of 41 years. Elvis is only 18 years old and Christophe is 14 years old. Gislain is 25 years old. They all grow kava, taro and coconut from which they earn their income. They admitted freely their actions and involvements in this matter. It is apparent from the facts that they had some disagreements with the victim of their actions but they went too far by taking the law into their own hands.

By acting as they all did, the defendants acted in contravention of the penal provisions. I am told that they have had some kind of customary settlement but that can only be taken as a mitigating factor under section 119 of the Criminal Procedure Code Act CAP. 136.

Under the circumstances of the case the appropriate sentence of the Court will be fines which are as follows:-

In relation to Count 1, the Court sentences Chief Rogatien Tabisap to a fine of VT8.000 or 1 months imprisonment in default payment.

In relation to Count 2, the Court sentences Elvis Tabiairy to a fine of VT4.000 or 2 weeks imprisonment in default of payment.



In relation to Count 3, the Court will not impose any punishment on Christophe because he is a minor although a conviction is entered against him. Yannick, Gislain and Daniel are however sentenced to fines of VT2.000 each or 1 week imprisonment in default.

A total fine of VT18.000 was paid by Chief Rogatien on behalf of all the Defendants on the same day.

PUBLISHED at Luganville this 18th day of July 2006.

BY THE COURT



OLIVER A. SAKSAK
Judge

