

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

Criminal Case No. 47 of 2010

PUBLIC PROSECUTOR

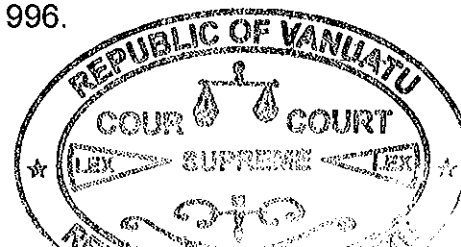
V.

ALEX DENNY

Coram: Justice D. Fatiaki
Counsel: Mr. Standish for the State
Mr. Bal for the Defendant
Date of Sentence: 24 August 2010

SENTENCE

1. Alex Denny, you appear today for sentencing for 2 property offences which you committed in March 2009. The offences are: Unlawful Entry contrary to section 143 of the Penal Code which carries a maximum penalty of 20 years imprisonment and Theft contrary to section 125 (a) of the Penal Code which carries a lesser maximum penalty of 12 years imprisonment. It is a matter of concern that it has taken 18 months for this case to reach this point but that cannot deter me from my duty to pass sentence on the Defendant.
2. These offences first came to light when the police executed a search warrant in August 2009 at the Defendant's home at Malapoa Estate and seized a large number of items including 2 spear guns from under his bed. The spear guns were later identified and reclaimed by the complainant and the Defendant was charged with the offences. Earlier the complainant's house girl had recovered 2 rolls of fishing line and had returned it to her employer. The items had all gone missing from the claimant's garage in March 2009.
3. Although the Defendant elected not to answer questions in his police interview he has frankly admitted committing these offences in Court.
4. The Defendant is originally from South Tanna and is 37 years of age. He is living in a defacto relationship and is the father of 6 children which he supports from his taxi business. His partner also works as a house girl. He also receives some financial support from his relatives in Nouméa. He is presently serving a sentence of 5 years imprisonment imposed by this Court on 17 December 2009 in Criminal Case No. 121 and 125 of 2009 in relation to 2 charges of Unlawful Entry, 1 charge of Malicious Damage and 2 charges of Theft. However the Defendant's record of previous convictions for similar offences dates back to the year 1996.



5. Alex Denny during your most recent sentencing in December 2009 the Court said "... you are now a recidivist offender for offences of this type. That means that prison is the only option available to the Court when it comes to sentencing you ...".
6. In light of those remarks no useful purpose would be served by considering and imposing a non-custodial sentence in this case. Both counsels submit however that any sentence I impose on you should be ordered to run concurrently with your existing prison sentence.
7. I note your early plea of guilty and the fact that the stolen items have been returned to the complainant. I also note that these items were removed from the complainant's open garage and did not entail you actually breaking and entering the complainant's dwelling house.
8. In all the circumstances the most lenient sentence I can justly impose is a sentence of 9 months imprisonment on each charge to be served concurrently with the sentence of imprisonment that you are presently serving.
9. I am taking this unusually merciful step because of the time that it has taken to deal with this case and, more particularly, because these offences were committed at around the same time that the offences in Criminal Case No. 121 and 125 of 2009 occurred, and although this case involves a different premises, nevertheless, it should properly have been dealt with at the same time as those earlier offences. That they weren't so dealt with together was beyond your control and you should not be made to suffer for that failure.
10. You have 14 days to appeal against this sentence if you do not agree with it.

DATED at Port Vila, this 24th day of August, 2010.

BY THE COURT

