

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

Criminal Case No. 98 of 2008

PUBLIC PROSECUTOR

-V-

BEN JACK

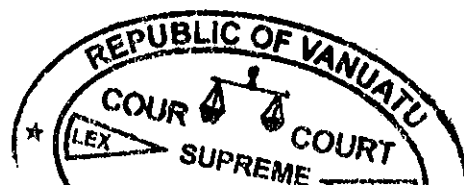
Coram: Justice N. R. DAWSON

Date of Sentencing: 14th December, 2010

*Counsel: Mr. P. Wirrick for Public Prosecutor
Mr. F. Tasso for Accused*

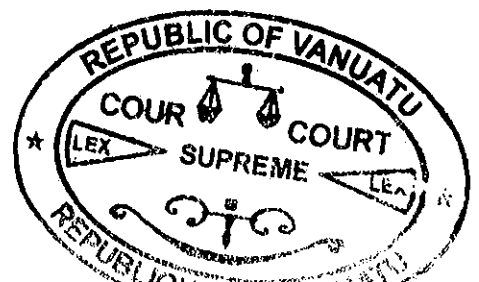
SENTENCE

1. Mr. Jack you appear in Court today for sentencing on one count of Unlawfully Entering a Dwelling House and a second count of Theft.
2. Sometime during the night of September 30th, 2008 in the early hours of October 1st, you broke into a house in the Lycee area of Port Vila. You entered the house by breaking the kitchen window fly screen and climbing in through that window. The burglary occurred at the time when the victim was asleep in the house. You stole a number of items and money. The items stolen included a stereo, video player, digital camera, mobile phone, scuba diving, knife, torch, watch, bank cards, driving licenses and two purses which contained a AUD \$500.00, USD \$1,100.00, EUR 1,650.00, 1JPY 180,000.00, XFR 500.000, Korean Won 500,000 and VUV 10,000.
3. On 2nd October until 16th October 2008 you were exchanging the various types of the amounts of currency at the Seven-Eleven store in Port Vila. You were using the name Jack when doing this. On 27th October 2008 you



attempted to exchange Euro currency at the Westpac Bank, but unknown to you the Police were conducting an operation at the bank at that time and you were arrested as a result.

4. I note Mr. Jack that you are 32 years of age and that you have a number of previous similar convictions and you are currently serving an 8 year sentence for similar offending. I have received the submissions from the prosecution and the defence and the probation report. I have read those and will take those into account.
5. In sentencing you it is necessary to hold you accountable for the harm that you have caused by your offending. It is also appropriate to denounce your ongoing offending in this way. The community are entitled to have their material possessions protected and that must be taken into account when I sentenced you today.
6. There are a number of aggravating factors to your offending. The first is that the unlawful entry of the dwelling house took place at night while the victim was asleep in the house. There was therefore a risk that he might awake and there could be a confrontation as a result. There was also a large amount of money taken from that house by you. It also appears to have been some premeditation and planning by you to commit this offending. I also need to take into account your record of serious offending in the same way previously.
7. In mitigation, you entered an early guilty plea and some of the money has been returned to the victim. You have expressed remorse but that remorse has to be considered in light of your ongoing offending and your apparent unwillingness to change your behaviour.
8. The Probation Report notes that you are currently remanded in the high risk unit at the Correctional Center and you are classified as a medium risk detainee. It also notes that you are sentenced earlier this year for 8 years for very similar offending in Santo.



9. Mr. Jack it is my view after I have taken into account the sentencing of your co-offenders that the starting point to your offending should be a term of imprisonment of 2 years. I take into account the aggravating factors and that is increased to 3 years. I then deduct for the mitigating factors and it would be appropriate to sentence you to a term of imprisonment of 2 years for this offending. I note that you are sentenced to 8 years imprisonment early this year. Those charges were separate and distinct from these charges and ordinarily this sentence would be imposed cumulatively. However, had sentencing of all charges taking place on the same day as could and perhaps should have been the case then the sentencing Judge would need to have taken into account the totality principle. I now do so and for these offences you are convicted and sentenced to a term of imprisonment of 6 months which will be cumulative upon your existing sentence.
10. You have a right to appeal this sentence. For any appeal you must lodge a notice of appeal within 14 days of today's date.

Dated at Port Vila, this 14th day of December, 2010

BY THE COURT


N. R. DAWSON
Judge

