

PUBLIC PROSECUTOR

V

MORRIS SILAS  
WILSON RARUA  
PASCAL JACKSON  
BARRY PAKOA  
BOBBY ULAS  
LEE TAMATA  
SYLVIO TEVANU

*Hearing:* 21 September 2011  
*Before:* Justice Robert Spear  
*Appearances:* Simcha Blessing for the Public Prosecutor  
Tom Botleng for the accused Morris Silas  
Jacob Kausiama for Wilson Rarua, Pascal Jackson, Barry  
Pakoa, Bobby Ulas, and Sylvio Tevanu

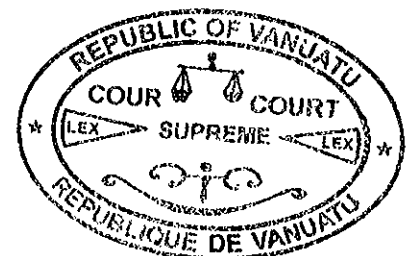
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SENTENCE

Morris Silas, Wilson Rarua, Pascal Jackson,  
Barry Pakoa, Bobby Ulas, Sylvio Tevanu

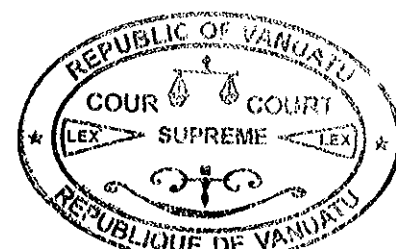
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1. These six prisoners are for sentence today on a charge of escaping from lawful custody. They pleaded guilty to that charge at an early stage although it might be thought that their pleas of guilty were inevitable given the circumstances that I am about to describe.
2. Their co-accused, Lee Tamata, is still at large and a warrant for his arrest remains in force. His elusiveness may prove costly for him given the way in which the prosecution against the other six has been progressed.
3. The six prisoners, together with Lee Tamata, face charges relating to a serious case of disorder which saw the ex-French prison set on fire and



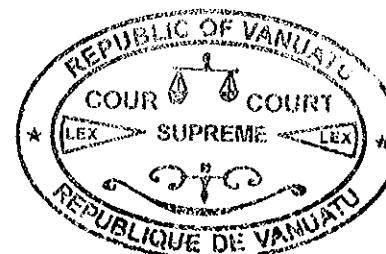
substantially destroyed. A number of prison mates escaped with violence was allegedly used against at least three prison officers. The charges of unlawful assembly, arson and assault were dismissed for want of prosecution for the reasons set out in my decision of 23 August 2011. That was not an outcome that this Court embraced with any enthusiasm but it was a necessary response. I do not attempt here to revisit or restate the decision to dismiss the charges for want of prosecution.

4. It now falls for these six accused to be sentenced for escaping from lawful custody to which they have each pleaded guilty at an early stage.
5. The fact that the prison was set on fire and prison officers were injured during the course of their escape cannot be taken into account as aggravating features to the offending. They were discrete charges which have been dismissed and so there cannot be a backdoor entry (as it were) of those charges to aggravate the offence of escaping from lawful custody. This is an outcome that Mr Blessing for the Public Prosecutor accepts and with which he takes no issue.
6. The circumstances of this offending are serious in contemplation. It would appear that there was something of a riot at the ex French Prison which, at that time in 2008, was holding the maximum security inmates. This riot by the inmates saw the prison set on fire and effectively the ability to physically contain the prisoners was destroyed. I am informed, however, that the prisoners, almost as a group, were taken by two members of parliament to the Ohlen area and then on to the Chief's nakamal where they remained until they were collected and removed to the ex-British Prison. Technically, that amounted to an escape from lawful custody although it has to be said that there were pragmatic reasons for the prisoners to have moved away the area of the ex French Prison.
7. What is important for sentencing is to impose a sentence here that marks, in a relatively nominal way, that escaping from lawful custody is a crime that is taken seriously by the Courts. However, in the unusual circumstances of this



case, the offending for these prisoners is to be treated as being at the lower end of the scale of seriousness. Certainly, if any of these accused had been convicted also of arson (in relation to the setting fire of the prison) or the assault (on the prison officers which saw serious injuries result then they would be looking at lengthy terms of imprisonment cumulative on their existing sentences. However, for reasons I have already mentioned, the sentence to be imposed today is simply for escaping from lawful custody without further aggravating reasons which would link them to being the cause of the riot, the setting fire of the prison or the injuring of the prison officers.

8. I have canvassed with counsel and Mr Rarua (Probation Officer) probation service, whether a sentence of 3 months imprisonment that would be an proportionate response by the Courts.
9. All counsel accept that three months imprisonment would be an appropriate response to the escaping charges. It recognises that escaping from lawful custody is a crime which will be treated seriously by the Courts in all but the most innocuous of circumstances.
10. The status of each of the prisoners is different and I record it as follows:-
  - Morris Silas is serving a sentence of 8 year imprisonment for theft but was subsequently released on parole before being charged;
  - Wilson Rarua is 3 years into a 5 ½ year for arson and is accordingly likely to be eligible for parole;
  - Pascal Jackson is 4 years into a 13 year sentence for rape;
  - Barry Pakoa is 4 years into a 5 year 10 months sentence for rape and again is likely to be eligible for parole;
  - Bobby Ulas has served a 6 months sentence for cultivation of cannabis;
  - Sylvio Tevanu is 7 years into a 9 year sentence for theft and was on parole when charged.
11. Each of the prisoners has spent over 5 months in custody on remand in respect of these matters. In some cases, particularly for Bobby Ulas, a



sentence of 3 months imprisonment will see the prisoner released immediately. In respect of the other prisoners, it is necessary for a sentence to be imposed concurrently with the existing sentence. It will then become an administrative matter for Correctional Services to determine the release date which, in some cases, may be by immediate release. But that is a matter for Correctional Services.

12. So, in respect of Bobby Ulas, the sentence is 3 months imprisonment less the 5 months he has spent in custody which means he is released immediately - time served.
13. In respect of Morris Silas, Wilson Rarua, Pascal Jackson, Barry Pakoa and Sylvio Tevanu they are each sentenced to 3 months imprisonment concurrent on their existing terms.
14. Each of you has 14 days to appeal this sentence in the unlikely event that any of you do not accept it.

**BY THE COURT**

