

PUBLIC PROSECUTOR

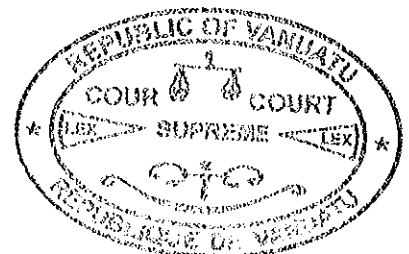
V

**DONALD RAPRAP
ANTONIO SOLOMON
MARK USUA
JOHN RAPRAP**

Hearing: 10 June 2011
Before: Justice Robert Spear
Appearances: Simcha Blessing for the State
Tom J Botteng for the Accused

HEARING NOTES / ORDERS

1. You are for sentence having pleaded guilty to various charges of burglary and theft.
2. In your case, Donald Raprap and Antonio Solomon, you have pleaded guilty to 5 charges of burglary; that is, the unlawful entry of another property. Also, an associated 5 charges of theft. That offending occurred in respect of 4 homes here in Port Vila and on each occasion substantial property was taken after you had entered those houses. On one occasion, you burgled the same property on two consecutive nights.
3. Mark Usua you joined with Donald Raprap and Antonio Solomon in respect of 3 of the burglaries: counts 3, 4, 5, 6, 9 and 10, so you are for sentence on 3 charges of burglary and 3 associated charges of theft. I note that your role was as the watchman or lookout - the person who waited outside just to check that no one disturbed the others inside.

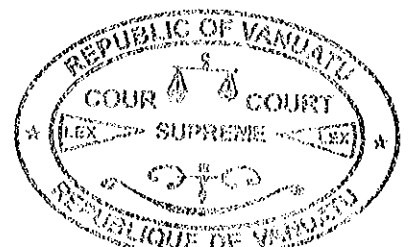


4. While that may be considered a lesser role, it was still an important role because it meant that Donald Raprap and Antonio Solomon were able to go about their dishonest activities inside the home with the added security that you were outside ready to warn them if anyone arrived. I do not consider in respect of repeat offending that it is a role that should count for a significant reduction in the sentence. If it was a single or one-off occasion then I could understand the need for a significant reduction but, for repeat offending, it is clear that the 3 of you simply adopted different but important roles for the collective good.
5. John Raprap, you were involved only in respect of the last property. That was in December 2010. These burglaries took place in November and December 2010.
6. I have already mentioned that a substantial quantity of property was stolen as detailed in the submissions presented by the prosecutor. It would appear that you became more sophisticated as your became more experience at stealing from these homes. I mention that in particular because not only did you steal alcohol, stereo equipment, jewellery, credit cards and such like but, in respect of counts 7 and 8, the burglary on 1 December 2010, Donald Raprap and Antonio Solomon you stole a safe that had been bolted to the floor and which included passports, playing cards, papers. You also stole a very expensive sound system and other items.
7. In respect of the last property in which all 4 of you participated, one of the items taken was indeed a dining table. That provides some indication of audacious how your offending had become.
8. The burglary of dwelling houses must always be taken seriously by the Court. Not only is it an invasion of someone else's home, there is always the risk that there will be a confrontation if the occupier of the home is there unbeknown to you and disturbs you or returns during the course of the burglary. Regrettably, that has seen confrontations where the home owner



has been seriously injured and killed. The burglary of dwelling houses, other people's homes, is always considered more serious than say of commercial property where all that is at risk are items of a monetary value.

9. You had different roles in respect of this property and I have commented already on the role undertaken by Mark Usua. However, without question, Donald Raprap at 36 years of age and Antonio Solomon at 24 years of age - you were the ring leaders. You were the two men who organised these burglaries, organised the teams and brought the other two in on the game. You must take greater responsibility for what happened. I notice that you are all from the same island of Tanna and clearly you have been up here in Port Vila without work and you decided to turn to dishonest ways to support yourself.
10. Donald Raprap and Antonio Solomon, the various observations made to the probation officer as to your promise and your character can count for little because you were old enough to know better and you were old enough to have been able to find work outside criminal activities.
11. This sentence must hold you fully accountable for what you have done, it must denounce your conduct and promote in you a sense of responsibility for your activities. You have caused substantial lost to others not just because of the items that you have taken but also because they will no longer feel safe in their homes. It is an easy activity to perform, breaking into someone else's home, and it is often difficult to apprehend those people who have done so. When they are caught they need to be punished so that people will appreciate that it is not worth the risk.
12. I have no details of whether any of the property was recovered. Mr Malantugun now informs me that it was not recovered which means that you had clearly established the criminal contacts by which you could dispose of these items, particularly the electronic items, for cash. So there is a direct loss to all the complainants of the goods stolen as well as their sense of security in their home.



Mr Malatugun approached me later in the day to say that he might have misled me about the loss of property. He has since become aware that some of the property was recovered. I have no further details than that but do not consider, in any event, that this warrants an adjustment to the sentences imposed.

13. I turn now to the sentences that must be imposed upon you.

Donald Raprap

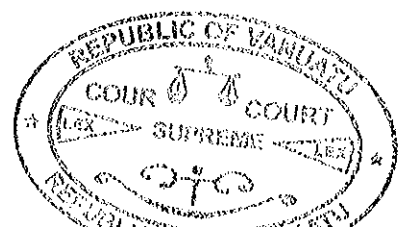
14. Donald Raprap, for undertaking the 5 burglaries and the 5 associated thefts, I consider that a starting point of 4 and half years is appropriate. You have a previous conviction for theft although it was some years ago and for that I provide an uplift of 6 months which brings me to 60 months or 5 years imprisonment. You pleaded guilty to all charges but one in the first reasonable opportunity and you have changed your plea to count 7 today in accordance with earlier indications. I will give you the full discount of one third against the sentence that would otherwise have been imposed upon you.

15. That brings me to a sentence of 40 months or 3 years and 4 months imprisonment. You have been in custody on remand for a period of 4 months.

16. Taking count 1 as the lead charge, on that charge you are sentenced to 3 years imprisonment. On the other charges (counts 2 through to 10) you are sentenced to 18 months imprisonment.

Antonio Solomon

17. Antonio Solomon, 24 years of age. You also participated with Donald Raprap in respect of each of these burglaries and you were clearly one of the two ringleaders. Despite the difference in age between yourself and Donald Raprap I consider that a 4 and half year starting point is also required for you. You are clearly remorseful, you are also a first offender and so for that reason



I will deduct a 6 months and then allow a full one third for your early guilty pleas bringing me to an end sentence of 32 months imprisonment. You have spent 3 months and 21 days in prison.

18. Accordingly, the end sentence on count 1 being the lead charge is 27 months and 10 days imprisonment. On counts 2 through to 10 you are sentenced to 15 months imprisonment. Even though you are a first offender I am not prepared to consider suspension of sentence for such repeat offending.

Mark Usua

19. Mark Usua you were 20 years of age at the time that you participated with Donald Raprap and Antonio Solomon in the 3 burglaries. I have already mentioned that I do not consider that your specific role as lookout should play significantly in the final calculation of the sentence.

20. For you, I adopt a starting point of 3 years imprisonment. I will reduce that by 6 months to reflect your youth, 20 years of age at that time, and the fact that you were a first offender. It does appear that you got yourself into bad company. I will allow you a further and full one third credit for your early guilty pleas which brings me to an end sentence of 20 months imprisonment. You have already been in custody for 3 months and 21 days.

21. The sentence on the lead charge (count 3) is one of 16 months and 10 days imprisonment. On counts 4, 5, 6, 7, 9 and 10 you are sentenced to 12 months imprisonment. I am not prepared to suspend your offending despite your age and despite the fact that you are a first offender and this is because this was not a one-off burglary but a series of 3 burglaries that took place over a period of about 3 weeks. You had time to come to your senses but you made the decision to continue with your older associates and for that you must serve time in prison.

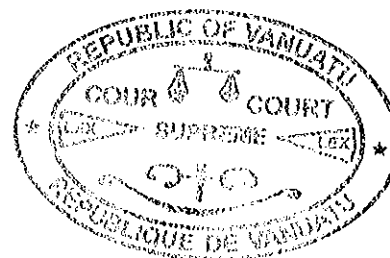
John Raprap

22. John Raprap, you were only involved in the last burglary that took place on 14 December 2010. You were only 16 years of age at that time. Clearly, you



were influenced by your older brother and the other two and so that can be understood as a stupid decision made by a young man. Be that as it may, I am required to adopt a starting point here of 2 years' imprisonment. For your youth and the fact that you are a first offender, I reduce that by 9 months and a further 5 months which represents a full one third credit for your guilty plea. That brings me to 10 months imprisonment.

23. I am prepared to suspend that to reflect the fact that you are still a young man, that you were only involved in one of these burglaries, and that you were clearly led astray by your older and more criminally-inclined associates. Additionally, you have spend some remand time in custody (again 3 months and 21 days) and you now have a taste of what happens to those people who carry out burglaries.
24. Taking count 9 as the lead charge, you are sentenced to 10 months imprisonment which I suspend for a period of 2 years. If you are convicted of an offence over the next 2 years you can be called to prison to serve that 10 month imprisonment term along with any further time that is warranted for your further offending. *"Do you understand me? Thank you for acknowledging that you do"*. I record now that you have been on remand in custody for 3 months and 21 days and so, if that sentence of 10 months imprisonment is activated, that will need to be taken into account at that time.
25. You will also carry out 100 hours community work and you are placed under supervision for a term of 12 months with these special conditions:
- a. You will undertake the Niufala Rod programme to help you get on the right track.
 - b. You will undertake spiritual counselling with your Minister as arranged by the probation officer.
 - c. You will undertake general counselling with your chief as again arranged by a probation officer.



26. You have had a lucky escape today because burglars usually go to prison. It is principally because of your age and the fact that you participated in only one burglary that you have managed to escape prison.
27. John Raprap, you will need to attend the Court office at 3 pm today to be served with the supervision and community work orders. You will not need to go back to prison except to collect your personal effects.

Appeal

28. All four of you have 14 days to appeal the sentence imposed on you if you do not accept it.

BY THE COURT

