

IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU

*(Criminal Jurisdiction)*

Criminal Case No. 71 of 2013

PUBLIC PROSECUTOR

V

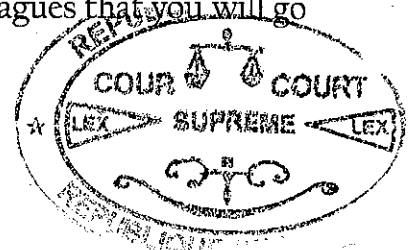
JIMMY NOSES

Coram: Judge Aru

Counsels: Mr. T. Karae for the Public Prosecutor  
Mr. J. Kausiama for the Defendant

SENTENCE

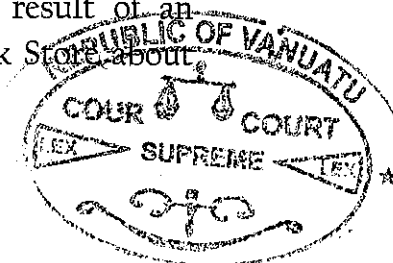
1. Jimmy Noses this is your sentence. You were originally committed to the Supreme Court for trial on one count of misappropriation contrary to section 125 b) of the Penal Code [CAP 135].
2. On 3 December 2013, you pleaded not guilty to the charge and the matter was listed for pre trial conference on 26 February 2014. Following an amendment of the charge, you were re-arraigned on one count of theft contrary to section 125 a). On 7 May 2014 you pleaded guilty to the charge and you were convicted accordingly.
3. In summary, the facts of your offending are that on 7 October 2013 at around 5.30pm at Mok store No 3 you were finishing of from work when you saw the cashier counting the days takings. You then approached her and told her that you will be taking the funds to your employer. You were then handed the money in a white envelope. At around the same time the driver left to collect the days takings from Mok store Tebakor. The monies were given to him in a white envelope and when he returned to Mok Store No 3 you told the driver to hand you the envelope to take to your employer. On seeing that you already had a white envelope he did as you had asked. You then went to your employer's house and knocked on the door but it was locked. You then told your colleagues that you will go



behind the house and get the key. You went behind the house and ran off with the money .The amount taken was as follows:

	Cash	cheques
Mok Store No 3	VT 302,752	VT 48,100
Mok Store Tebakor	VT 312,610	VT 15, 500

4. When you were cautioned and interviewed by the Police, you admitted the offending .The offence of theft carries a maximum penalty of 12 years imprisonment. Your offending is very serious as you clearly intended to deprive your employer of the days takings when you told the cashier and the driver to hand you the envelopes containing the funds and when you went behind the house you ran away with the money. Your actions are irresponsible and such behaviour must be condemned .The sentence I impose on you today marks the gravity of your offending and must be a deterrence to your future offending .
5. As a starting point I sentence you to 2 years imprisonment. As a result of your offending, Mok Store has sustained a loss and the amount taken is quite substantial being VT 615,362 in cash and VT 63,600 in cheques. You were employed as a security guard to guard against such activities but you have now breached the trust of your employer. You clearly planned to do what you did. Having considered these factors, I increase your sentence to 3 years imprisonment.
6. Your pre-sentence report highlights some of the factors personal to you.Firstly you are 27 years of age with a catholic background and you are a first time offender .You had some secondary education then later attended Berkel Rural Training Centre on Malekula to undertake carpentry, electrical and mechanical courses. Your ambitions are to complete your incomplete house.
7. Your relatives know you as smart and hard working. You told your probation officer that your offending came about as a result of an argument you had with your employer, the owner of Mok Store about



payment of monies you claimed you were entitled to. You stated that you were driven by anger which led you to commit the offence.

8. You are willing to perform custom reconciliation but this has not happened to date. Similarly you repaid Mok Store a sum of VT 100,000 by direct deposit to their bank account.
9. Having considered these factors I reduce your sentence to 2 years imprisonment. For your early guilty plea your sentence is discounted by one third leaving you with a sentence of 18 months imprisonment. A further deduction is made for the time already spent in custody being 4 months and 9 days and also the fact that you are a first time offender leaving you with an end sentence of 13 months imprisonment which I suspend for a period of 2 years. In addition to your suspended sentence, you are to do 100 hours community work. If you should re-offend during the two years of your suspended sentence, you will be remanded in custody to serve the balance of your sentence.
10. You have 14 days to appeal your sentence if you are not happy with it.

DATED at Port Vila, this 5 of June, 2014

BY THE COURT

.....  
D. ARU  
Judge

