

PUBLIC PROSECUTOR

V.

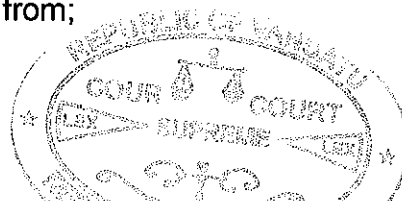
REUBEN MAKI

*Mr. Ken Massing for the State
Ms. Jane Tari for the Defendant*

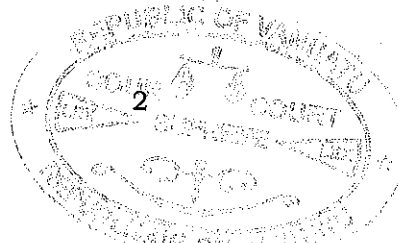
SENTENCE

1. In this case the defendant Reuben Maki was convicted on 30 May 2014 for an offence of Arson contrary to Section 134(1) of the Penal Code Act [CAP. 135]. He had pleaded guilty to the offence and admitted the facts outlined by the Prosecutor.
2. The prosecution summary of facts details how on the evening of 16 December 2011 between 10 and 11 p.m. the defendant who was drunk at the time, was seen entering the complainant's timber house. After some time a flame were noticed in the house but suspicions were not aroused. The defendant was next seen running out of the house shouting. He fled the scene. Attempts to put out the fire was unsuccessful and the whole house was burnt to the ground. The complainant's loss included cups, plates, clothes and 3 mattresses.
3. On 30 January 2014 (*ie.* 25 months after the incident) the defendant who had been "*on the run*", was finally arrested. Under police caution interview the defendant admitted lighting the fire that burnt down the complainant's house. In his own words:

"Mi bonem long wan matches nomo. Mi strikem mo lightem wan calico first taem. Mi kirap mi putum mattress mo som mo clothes iko long fire blong mekem bigwan"
4. Upon the defendant's conviction and at the request of defence counsel a pre-sentence report was ordered along with sentencing submissions from both counsels. As of the date of writing this sentence no submissions have been filed by either counsels.
5. However I am gratefully assisted by the pre-sentence report and from which I extract the following personal circumstances of the defendant:
 - He is originally from Lulep village, Paama Island but considers himself a native of Malekula where his father is from;



- He was born on 14 May 1992 and would have been over 19 years at the time of the offence;
 - He received a primary education up to year six at Sarakata SDA Primary School and has skills in carpentry and wiring that he acquired from work experience;
 - He is now in a “*defacto*” relationship and his partner and their 8 month old baby son live on Malekula;
 - He has prior criminal convictions for offences of Intentional Assault, Damage to Property, Unlawful Entry and Theft for which he received non-custodial sentences of parole and community work;
 - The defendant frankly admitted that the major contributing factor for the offence was his consumption of alcohol and the refusal of the complainant (his step brother) to lend him VT100 for cigarettes;
 - He apologises for his offending and expressed a willingness to perform a customary reconciliation ceremony to the complainant.
6. The complainant and his family have lost everything and were rendered “*homeless*”. The complainant is willing to accept a customary reconciliation ceremony but clearly that will not bring his home back. Meanwhile he and his family will continue to live in their cramped “*bush kitchen*”. No value has been placed before the Court as to the amount of the damage suffered by the complainant as there should have been in any Arson investigation and would have assisted the Court in sentencing the defendant as well as in an order for compensation should it be considered appropriate.
 7. In my view, the sole redeeming feature in this case is that there was no injury or loss of human life but the discomfort and emotional trauma would have been great for the complainant and his family and continues even today.
 8. Reuben Maki although you profess skills in carpentry and wiring you have not offered to help the complainant rebuild his family home neither have you offered to compensate the complainant for the loss of all their material possessions and although you said to the Probation Officer that you were willing to perform a customary reconciliation ceremony, you have had over two (2) years since the offence to perform a reconciliation ceremony if you were really genuine, but you have still not done so.
 9. Arson is an offence that carries a maximum sentence of imprisonment for 10 years. It is a serious offence.
 10. In this case your offending was both wilful and wanton. It is marked by a complete lack of concern for your step brother and his family and was committed in a “*fit of anger*” whilst you were in a drunken state.



11. Let me say this to you. Drunkenness does not excuse criminal behaviour. If you can't handle alcohol, don't drink! You must also learn to control your anger and be willing to accept "no" as an answer to any request, especially where your unreasonable request was for money to buy cigarettes.
12. For your offence Reuben Maki I adopt a starting sentence of 3 years imprisonment which I reduce by 1 year in recognition of your guilty plea at the first opportunity making a final sentence of 2 years imprisonment.
13. I do not consider this is an appropriate case to suspend the sentence even though over 2 years have elapsed since the commission of the offence and in that time you have managed to stay out of trouble.
14. The sentence of the Court is: 2 years imprisonment commencing from 30 January 2014.
15. You have 14 days to appeal against this sentence to the Court of Appeal if you do not agree with it.

DATED at Luganville, Santo, this 23rd day of June, 2014.

BY THE COURT


D. V. FATIAKI
Judge.



IN THE SUPREME COURT
OF THE REPUBLIC OF VANUATU



WARRANT OF COMMITMENT UPON A CONVICTION
WHERE THE PUNISHMENT IS IMPRISONMENT

(Section 189)

To: **Director of Correctional Services, Luganville, Santo, in the Republic of Vanuatu**

WHEREAS on 30 May 2014 **REUBEN MAKI** was convicted of the offences of **Arson** contrary to Section 134(1) of the Penal Code Act [CAP. 135];


AND WHEREAS REUBEN MAKI was remanded in custody after his said conviction to await sentence by the Court;

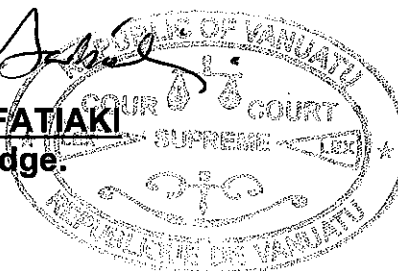
AND WHEREAS on 23 June 2013, the said **REUBEN MAKI** was sentenced to be imprisoned for 2 years commencing from 30 January 2014;

NOW THEREFORE YOU ARE HEREBY COMMANDED to keep the said **REUBEN MAKI** in custody for the period of his sentence as above.

DATED at Luganville, Santo, this 23rd day of June, 2014.

BY THE COURT


D. V. FATIAKI
Judge.

The seal of the Supreme Court of Vanuatu, featuring a central figure holding a staff and a shield, surrounded by a circular border with the text 'REPUBLIC OF VANUATU' and 'SUPREME COURT'.