

**PUBLIC PROSECUTOR**

**-V-**

**EILON MASS**

**Coram:** *Mr. Justice Oliver.A.Saksak*

**Counsel:** *Ken Massing for Public Prosecutor  
Daniel Yawah for the Defendant*

**Date:** *14<sup>th</sup> August 2015*

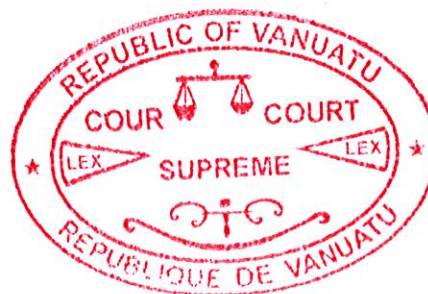
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**VERDICT**

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1. In arriving at this verdict, I have considered the following-

- a) The meaning of the word “ **Incite**’ which is defined in Black Law Dictionary 7<sup>th</sup> Edition to mean:  
“ **To provoke or stir up someone to commit a criminal act or the criminal act itself.**”
- b) The question: why did the defendant (EM) involve the chiefs of Kole, Natawa, Lorum, Manioc and Lonnoc to pursue the shooting case when he could easily have engaged his legal Counsel he had at the time? Alternatively, why did he not simply distance himself from them?
- c) The questions: Why was the defendant (EM) present at the gate of Velit Bay (VB) on 21<sup>st</sup> September 2014? If the sole purpose of him being there was to oversee the removal of machinery, why did he ask Peter Terry to send one of his trucks to pick up the boys from Kole Village prior to coming to VB?



d) The questions: The defendant having filed Civil Case No.196 of 2014 against the Western Pacific Cattle Company (WPCC), why didn't he make appropriate application for interlocutory orders under the Civil Procedures Rules instead of deceiving the people at the gate on 21<sup>st</sup> September 2014 that he had a Court Order permitting the removal of the machines, when the document he was relying was in fact only a copy of his Supreme Court Claim, thus taking the law into his own hands?

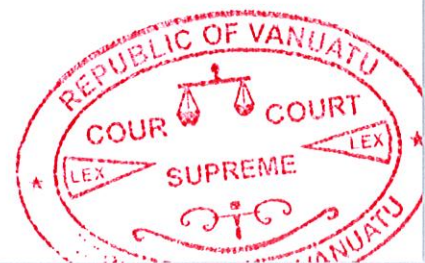
Alternatively why could EM not pursue his claim and obtain judgment before taking the actions he took on 21<sup>st</sup> September 2014?

e) The question: Why did the defendant (EM) not pursue his case independently with his Counsel whom he had at the time, instead of involving the chiefs and getting mixed up in their own case about the shooting and getting the convicted defendants into trouble?

f) Upon the defendant hearing what Senior Inspector Atuary told the chiefs at their meeting on 17<sup>th</sup> September 2014 and after knowing that the chiefs were beginning to get angry (according to his own evidence), why then did he approach Peter Terry on the very next day being Thursday 18<sup>th</sup> September to engage his trucks, one of which went to Kole Village to pick up the men, on EM's instructions. And after reaching agreement with Peter Terry about the hire of his trucks, why did the defendant then go to Kole Village in the evening of 18<sup>th</sup> September 2014 with Godrinton Lonsdale?

2. I therefore return the following verdicts-

(a) For Count 1- Inciting and Soliciting Unlawful Assembly contrary to section 35 in conjunction with section 69 of the Act, I am satisfied on the evidence produced by the prosecution that they have discharged the duty placed upon them to prove your guilt in regard to this charge to the required standard of proof beyond reasonable doubt,



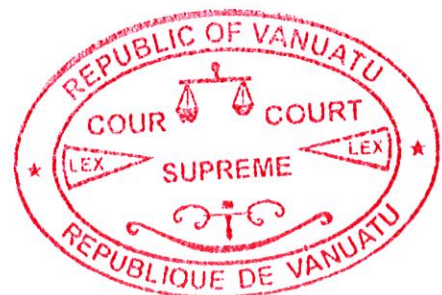
and I return the verdict of guilty against you Elion Mass and enter conviction accordingly.

(b) For Count 2- Inciting and Soliciting Theft contrary to section 35 in conjunction with section 125 (a) of the Act, I am further satisfied on the evidence produced by the prosecution that they have discharged the duty placed upon them to prove your guilt in regard to this charge to the required standard of proof beyond reasonable doubt. I therefore return the verdict of guilty against you Elion Mass and enter conviction accordingly.

3. A formal judgment giving full reasons will be published next week.

4. Upon hearing Counsel further in relation to sentence and a request by the prosecutor that EM be remanded in custody pending sentence, it is decided and ordered that-

- a) The oral application for remand in custody be declined.
- b) The defendant (EM) be allowed extended bail on the same conditions previously imposed, pending his sentence.
- c) The Probation Service is to file and serve a Pre-Sentence Report within 14 days from the date hereof by no later than 7<sup>th</sup> September 2015.
- d) Sentence be adjourned to Friday 11<sup>th</sup> September 2015 at 0900 hours.
- e) Counsel will file written submissions by no later than Monday 7<sup>th</sup> September 2015.





- f) The place of the Court sitting for sentencing will be notified to Counsel in due course.

**DATED at Luganville this 14<sup>th</sup> day of August 2015**

**BY THE COURT**

  
**OLIVER.A.SAKSAK**

**Judge**

