

**PUBLIC PROSECUTOR**

**-v-**

**JACOB VANUA MATATETERE and BARUBARU MOLI**

*Mr Massing for Prosecution*  
*Mr Nalyal for the Defendants*  
*Hearing 3<sup>rd</sup> March 2016*

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**SENTENCE**

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1. The two Defendants appeared before me today and entered guilty pleas to carrying firearms in a public place. The matter has been before the Court for some time because the Defendants and others faced additional charges. Those additional charges were *nolle'd* and the Defendants immediately entered guilty pleas to the firearms charges. Much of the delay in dealing with the case cannot be laid at the Defendants' feet but unfortunately for them, neither can it be said they entered their guilty pleas at the earliest opportunity.

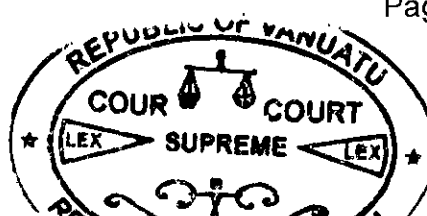
2. At the heart of this case is a dispute over land. It is not clear whether that dispute has been resolved. In any event on the 8<sup>th</sup> October 2014 the Defendants took guns into the area where the complainant lives with his family. One had a .22 rifle and the other a 12 gauge shotgun. No other information is available as to whether these were automatic, self loading or single shot weapons. Nor is it known who carried what. The latter point is not relevant to any great degree. There is no doubt that sometime during the "visit" both weapons were discharged into the air. It is not known whether the Defendants hold firearms licenses' but as they are not charged with possession of unlicensed weapons the presumption must be they are. In any event a couple of days later on 10<sup>th</sup> October the Defendants were arrested and the firearms were confiscated.

3. As I said to the Defendants in court they are lucky that in Vanuatu, unlike quite a few other countries, firearms offences do not carry mandatory maximum penalties. Nonetheless, in this jurisdiction the offence of carrying a firearm in public place without lawful authority or a reasonable excuse carries a maximum sentence of 5 years (or a fine of VT 250,000 or both) <sup>1</sup> so even in Vanuatu it is regarded as a very serious matter.

4. I have been offered no guidance as to sentences in this case. In my view the carrying of a firearm in a public place for the purposed of intimidating others should

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<sup>1</sup> Firearms Act [Cap 198] s29 and the Schedule



result in a sentence of 2 years imprisonment. That is where I shall start in this case. If the weapon is actually discharged or fired that must be an aggravating feature. In this case therefore the sentence should be 3 years imprisonment.

5. To their credit the Defendants have pleaded guilty. As I said earlier I cannot give them full credit for those guilty pleas but the Defendants are entitled to some reduction in the sentence. The Defendants are also without previous convictions and they should also be given credit for their previous good character. In all I believe they are entitled to have their sentences reduced by 12 months to 2 years. There are no other matters which I can take into account in order to reduce their sentences further. I am told that there have been discussions about custom reconciliation but nothing has happened so far.

6. I am told that the Defendants have been living in the area where the offences took place ever since they were released from Police custody in October 2014. I have not been made aware of any further incidents, involving firearms or otherwise, between the Complainant and the Defendants (or indeed those Defendants who were discharged following the *nolle* today). I take that into account in deciding whether the Defendants should remain at large in the community. I also take into account the family circumstances of the Defendants who both have families to support. The sentences will be suspended for a period of two years.

7. I explained to the Defendants that whilst they were not being sent to prison today they would be taken into custody if they committed any other offence. They would also be liable for sentencing in respect of that other offence.

8. I understand that the firearms are still in the custody of the Police. I order that those firearms should be forfeited and destroyed. I make a supplemental order that the Police are to confirm to the court in writing the date and method of disposal or destruction of the firearms.

9. I also indicated I would like to make an order prohibiting the Defendants from holding or applying for a firearms licence or possessing a firearm for a period of 10 years. There does not seem to be a provision in the Firearms Act allowing such an order to be made even though section 9(3)(a) refers to a person being prohibited under the Act. I will make the order and in case it is of no effect I will also send a copy of this decision to the appropriate Licensing Officer so that he can note his records as he sees fit.

Dated at Luganville this 3<sup>rd</sup> day of March 2016

  
Chetwyn J

