

PUBLIC PROSECUTOR

V

FAVO BARNABAS

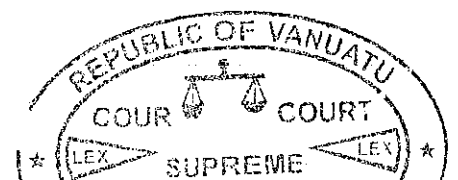
Date of Sentence: 20th day of June, 2018 at 9:00 AM

Before: Justice David Chetwynd

Counsel: Mr Damien Boe for Public Prosecutor
Mr Henzler Vira for Defendant

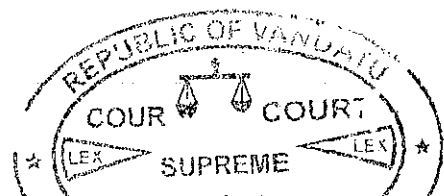
SENTENCE

1. The Defendant in this case, Barnabas Favo, has pled guilty to a charge of Arson. The simple facts are that on 2nd February this year he set light to a bush house being built by Tari Pepe. The house was built of local materials and was completely destroyed.
2. At the root of the incident was a land dispute. It is not clear from the evidence whether the defendant was the acknowledged custom owner of the land but it seems the victim, in any event, ignored a decision of the chiefs that there should be no development on the land. The defendant was frustrated by the victim disregard and disrespect of the chief's authority and so decided to burn down the home before it was completed.
3. It could be that if there was a trial, a decision about land ownership in the defendant's favour could be a defence. However that was not argued in mitigation submissions.
4. Arson is a serious offence. It is punishable by 10 years imprisonment. I bear in mind that no one was actually living in the house when it was burnt down. I agree with the prosecution that the starting point for sentencing purposes is 2 ½ years. In many respects this offence is serious not so much for the



burning down of the house but because the defendant took the law into his own hands. That aggravates the offence.

5. Apart from that there is nothing which particularly aggravating the offending. No one was occupying the house at the time and no one's life was put at risk.
6. The defendant has never been in trouble with the authorities previously and was undoubtedly a man of good character. He has lost that good character now but must be given credit for his past. I will reduce the sentence by 6 months to 2 years.
7. The final step in the sentencing process is to take account of the defendant's guilty plea. Whilst it is true that he did not plead guilty when first arraigned, he has entered a plea of guilty when the matter came to Court on this tour. In the circumstances I am prepared to deduct a further 6 months from the sentence leaving an end sentence of 18 months imprisonment.
8. Looking at the circumstances of the defendant and those of the offending I am satisfied that the sentence can be suspended. I take additional note of the matter of health raised in the helpful Pre-Sentence report. This defendant does not pose a danger to the community and the sentence can be suspended for a period of 1 year.
9. I explained to the defendant the consequences of being given a suspended sentence and the defendant acknowledged what would happen if he committed any other offences within a year.
10. The only remaining question is one of the payment of compensation. The victim is making a claim of VT200,000 for the costs of the house. I do not know if he is a chancer or the offence involved a very good building. I am also concerned that the victim may be less of the victim and more of a transgressor. However, it would be most unfair if I did not order compensation because of my concerns when I have not heard from the victim. It seems to be that the persons most able to assess whether or not compensation should be paid are the chiefs. I therefore suggested to the defendant that I leave a decision as to whether compensation should be paid



and if so how much, to the chiefs. He was agreeable to that suggestion and acknowledged he would abide by the decision of the chiefs. In those circumstances I do not feel it necessary for me to order compensation under the Penal Code.

DATED at Port Vila this 25th day of June, 2018.

BY THE COURT

[Handwritten signature]

David Chetwynd

Judge

