

**IN THE SUPREME COURT  
OF THE REPUBLIC OF VANUATU**  
*(Criminal Jurisdiction)*

**Criminal  
Case No. 20/715 SC/CRML**

**BETWEEN: Public Prosecutor**

**AND: Fathy Jimmy  
Ian Thompson  
Josiah Virae  
Leo Tom Yowan  
Walla Jean  
Buleban Martin  
Pako Jimmy David  
Manua Alick**  
*Defendants*

**Coram: Justice Aru**

**Counsel: Mr. T. Karae for the Public Prosecutor  
Mrs. P. Malites Defendants**

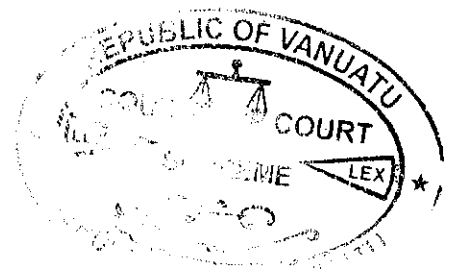
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## **SENTENCE**

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### **Introduction**

1. Fathy Jimmy, Ian Thompson, Josiah Virae, Leo Tom Yowan, Walla Jean, Buleban Martin, Pako Jimmy David and Manua Alick you are in Court to receive your sentence on charges of unlawful entry and theft. Trejo Nimbwen Donna has absconded but will be sentenced once the warrant for his arrest is executed
2. Ian Thompson you were charged with 3 counts of unlawful entry and 3 counts of theft. Josiah Virae and Buleban Martin you were charged with 2 counts of unlawful entry and 2 counts of theft. Fathy Jimmy, Leo Tom Yowan and Walla Jean you were charged with 1 count of unlawful entry and 1 count of theft. Pako Jimmy David and Manua Alick you were charged with 1 count of theft.
3. You pleaded guilty to these charges.
4. Unlawful entry is punishable with a maximum of 20 years imprisonment if the house is used for human habitation and 10 years imprisonment if it is not used for human habitation. Theft is punishable by a maximum of 12 years imprisonment.



## **The facts**

5. The facts are not disputed. On 13 December 2019 there were three break-ins in the Bellevue area on three different properties. Three complainants lodged complaints with the Police about their properties being broken into and items stolen.

### **Mrs S Cuilland**

6. Items missing from her property were:-

#### A) house:-

- 2 cartons tusker
- 1 carton juice
- 1 carton water
- New pair of Dr Martens Boots
- Horse riding boots
- Tool box
- Electric grinder
- Electric drill
- 2 glass cutter

#### B) club house

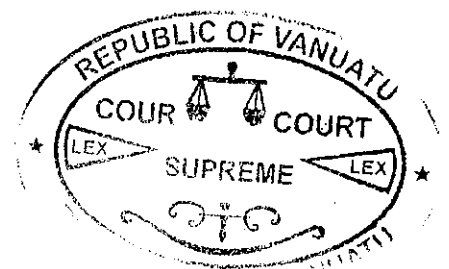
- Electric drill
- Electric grinder
- Two string cutters
- Black tool box

7. Ian Thompson, Josiah Virae, and Buleban Martin admitted that they went to the complainant's house and stole several items. There were too many items taken and they left some in the bush and only took one grass cutter as it was easier to carry.
8. The only item recovered was the grass cutter.

### **Mr D Guillian**

9. Items missing from his house were:-

- 2 fishing knife
- 1 red cutter
- 2 packet cigarette
- 2 lighter
- Meat



- Bottle wine
- Black bag
- Black saddle
- Solar power bank
- Roll plaster
- Half bottle wine

10. Ian Thompson, Josiah Virae and Buleban Martin admitted that they stole several items from the complainant's house. There were too many and they left some in the bush. They took a full bottle of wine, a half bottle of wine, a full packet of cigarettes and one used packet of cigarettes.

**Mrs. K. Nako**

11. Items missing from the Nakamal shop were:-

- Wine
- Beer
- Matches
- Biscuits

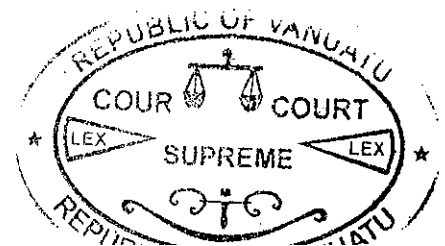
12. Fathy Jimmy, Ian Thompson, Leo Tom Yowan, Walla Jean, Pako Jimmy David and Manua Alick admitted that they stole several items at the complainant's house. They left some in the bush and took 2 bottles of wine.

**Aggravating factors**

13. There was some planning involved and the offending occurred at night. It was a joint criminal enterprise. The defendants broke into three different properties when the owners were asleep. All three complainants suffered loss as a result of the defendants' actions.

**Starting point**

14. When considering the starting point of your sentences. Unlawful entry is the lead offence for most of you except Pakoa Jimmy David and Manua Alick who are also the youngest of the group and are only charged with theft. The three complainants are people who have worked hard and acquired property to build their homes and businesses. They are entitled to protection of the privacy and enjoyment of their homes. Your actions have deprived the complainants of that. I must not only condemn your actions but considering, the circumstances impose a sentence that serves as punishment for your the crimes and a deterrence against your future offending. It must also serve to mark public disapproval of such offending.



**Ian Thompson**

15. You are 26 years of age. Your parents are retired and live on Tanna. You reside at Blacksands Salili area. Your offending was repeated as you are charged with all 6 counts. You are not a first time offender. The starting point of your sentence is 6 years imprisonment. 6 months is deducted for your cooperation and remorse and any time spent in custody. For your guilty plea a further 6 months is deducted. Your end sentence is 5 year's imprisonment to be served concurrently.

**Fatty Jimmy**

16. You are 31 years old. You are also not a first time offender as you are currently serving an existing sentence in custody. Your place of residence is also Blacksands area. The starting point of your sentence is 4 years imprisonment for breaking into a nakamal shop and stealing. 6 months is deducted for your cooperation and remorse. For your guilty plea 6 months is deducted. Your end sentence is 3 years imprisonment to be served consecutively with your existing sentence.

**Leo Tom Yowan**

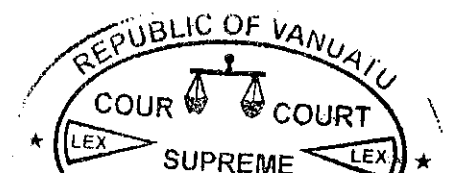
17. You are 21 years of age. You are a first time offender and you also reside at the Blacksands area. You completed your education at class 6 and could not continue due to financial difficulties. The starting point of your sentence is 3 years imprisonment. Being a first time offender and for your cooperation and remorse and any time spent in custody 12 months is deducted. The full one third discount is allowed for your guilty plea. Your end sentence is rounded off to 15 months imprisonment to be concurrent. The sentence is suspended for a period of 2 years. In addition you will perform 150 hours community work with 4 months supervision.

**Josiah Virae**

18. You are also 21 years of age. You are currently doing Year 8 at Malapoa College. You also reside at the Blacksands area. You are a first time offender. The starting point of your sentence is 5 years imprisonment. Being a first time offender and for your cooperation and remorse and any time spent in custody 12 months is deducted. For your guilty plea I allow the full one third discount. Your end sentence is rounded off to 2 years imprisonment to be concurrent. The sentence is suspended for 3 years. In addition you will perform 200 hours community work with 6 months supervision.

**Walla Jean**

19. You are 18 years of age. You are a first time offender. You also reside at Blacksands area. The starting point of your sentence is 3 years imprisonment. Being a first time offender and for your cooperation and remorse any time spent in custody 12 months is deducted. The full one third discount is allowed for your guilty plea. Your end sentence is therefore 15 months imprisonment to be concurrent. The sentence is suspended for a



period of 2 years. In addition you will perform 150 hours community work with 4 months supervision.

**Buleban Martin**

20. You are 18 years of age. You are a first time offender. You also reside at Blanksands area. The starting point of your sentence is 4 years imprisonment. Being a first time offender and for your cooperation and remorse and any time spent in custody 12 months is deducted. For your guilty plea I allow the full one third discount. Your end sentence is rounded off to 2 years imprisonment to be concurrent. The sentence is suspended for 3 years. In addition you will perform 200 hours community work with 6 months supervision.

**Pako Jimmy David and Manua Alick**

21. Pako Jimmy David you are 15 years old and Manua Alick you are 14. I have considered the circumstances of your offending. You are the youngest of the group. This is your first offending. Peer pressure may have led you to offend. I hope the experience you have gone through as a result of your actions has taught you a valuable lesson not to reoffend again. I am giving you a second chance. Both of you are discharged without conviction. Make use of this opportunity not to reoffend again.

**Conclusion**

22. You all have 14 days to appeal if you are not happy with your sentence.

DATED at Port Vila this 7<sup>th</sup> day of July, 2020

BY THE COURT

.....  
D. Aru  
Judge

