

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

Criminal
Case No. 19/3364 SC/CRML

BETWEEN: Public Prosecutor

AND: Elodie Temakon
Defendant

Date: 2 March 2020
By: Justice G.A. Andrée Wiltens
Counsel: Mr L. Young for Public Prosecutor
Mr L. Moli for the Defendant

SENTENCE

A. Introduction

1. Ms Temakon pleaded guilty to a charge alleging misappropriation – the maximum sentence for an offence of this kind is 12 years imprisonment. Accordingly, it must be treated as a very serious offence.

B. Facts

2. Ms Temakon worked at the ABM fuel station at Tassiriki as a cashier and attendant between 2010 and 2019 before being terminated due to this offending.

3. In the period of June 2017 to February 2019, Ms Temakon misappropriated a total of VT 1, 491, 674 from her employer.

4. When interviewed by the police, Ms Temakon made certain admissions. She admitted that she had used the funds for her own purposes. She advised that she stole small amounts as and when



needed to support her family. She complained about her low salary and her inability to make ends meet.

C. Aggravating Factors

5. There are a number of aggravating factors to the offending, as follows:

- Gross breach of trust towards her long-standing employer;
- Degree of planning;
- Duration of the offending – 20 months; and
- Extent of the loss.

D. Mitigation

6. I take into account that Ms Temakon is currently 37 years old, formerly living in a de facto relationship with 3 young children (2 in school). The PSR indicates she and her de facto have now separated.
7. Ms Temakon has no previous convictions; and she claims to be remorseful.
8. No custom reconciliation ceremony has occurred – but Ms Temakon has indicated to the PSR-writer that she would be willing to undertake such a ceremony.
9. Ms Temakon has found new employment, in a similar post. She offered reparation at VT 5, 000 per fortnight. I am most concerned at this development. Having stolen from her previous employer, she is again handling money for her new employer. If reparation were to be imposed, not only would it take some 12 – 13 years to fully repay ABM, but there must be real concerns as to how much of the reparation was from the new employer's funds. There is too great a risk to entertain her offer of reparation.

E. Starting Point

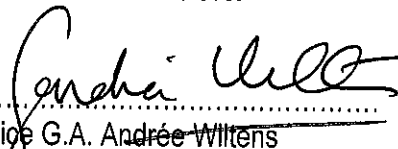
10. The start point that I adopt for the offending is 3 years imprisonment, which is in line with what both counsel submitted.
11. For Ms Temakon's personal factors, I reduce that by 4 months.
12. Ms Temakon pleaded at an early stage in the criminal process. However, the case against her was strong. Accordingly I am prepared to further reduce the sentence to take into the early guilty plea by 25%.



F. End Sentence

13. The end sentence therefore that Ms Temakon must serve is 2 years imprisonment.
14. The primary sentencing principals applicable to this offending are to hold Ms Temakon accountable for her criminal and dishonest conduct, and deterrence – the community needs to see that if staff steal from their employers, almost without exception, the likely outcome will be imprisonment.
15. Those principles also underscore why suspension of all or any part of the sentence would be inappropriate.
16. Ms Temakon has 14 days to appeal this sentence if she is dissatisfied with it.

**Dated at Port Vila this 8th day of March 2020
BY THE COURT**


.....
Justice G.A. Andrée Wiltens

