

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

Criminal
Case No. 20/456 SC/CRML

BETWEEN: Public Prosecutor

AND: Gino Lawac
Defendant

Date of hearing: 27 January 2021
By: Justice G.A. Andrée Wiltens
Counsel: Ms L. Lunabek for Public Prosecutor
Defendant in person

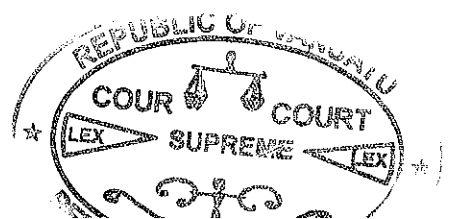
SENTENCE

A. Introduction

1. Mr Lawac pleaded guilty to 2 charges alleging obtaining money by deception.

B. Facts

2. On 17 August 2017, Mr Lawac attended an Australia Pacific Training Coalition programme. He met Ms Anna Charlie there and lied to her that his name was Malachai Josy, that he was from Pango and that he worked for the Ministry of Finance.
3. The next day, Mr Lawac persuaded Ms Charlie to give him VT 10,000 cash. This was allegedly to open a bank account at a cost of VT 2,000, with the balance being deposited to the account prior to being sent to 2 friends in USA. The friends would then deposit funds for the assistance of disabled persons from Mele Maat. Ms Charlie had to borrow the funds to give to Mr Lawac.



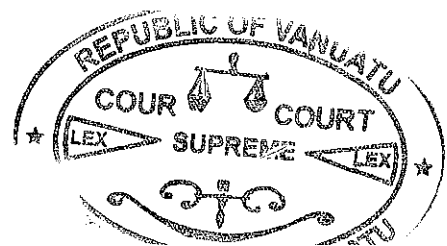
4. Shortly thereafter, Mr Lawac told Ms Charlie that he required a further VT 25,000. She had no money, and accordingly Mr Lawac then asked her mother, Ms Rose Tasso. Ms Tasso gave Mr Lawac VT 14,500 cash.
5. Mr Lawac told Ms Charlie and her mother that he would return the following week and let them know how much his USA friends had contributed. However, they did not see him again after that. They subsequently learnt of Mr Lawac's true identity and accordingly, in October 2019, complained to the police.
6. When arrested and cautioned, Mr Lawac maintained his rights to silence.

C. Sentence Start Point

7. The sentence start point is to be assessed by having regard to the maximum sentence available for this type of offending, and factoring in both the aggravating and mitigating aspects of the offending.
8. The maximum penalty for this type of offending is 12 years imprisonment.
9. There are no mitigating factors to the offending.
10. However, the aggravating factors that need to be taken into account, are:
 - the amounts obtained,
 - the slim prospects of reparation (the PSR reveals previous reparation orders have been observed in the breach),
 - the nature of the deceptions involved which preyed on the sympathy and generosity of the duped complainants, and
 - the fact that the charges reflect repeat offending on Mr Lawac's part.
11. The sentence start point I adopt for this offending, on a totality basis, is 2 years imprisonment on each charge.

D. Personal Factors

12. Mr Lawac pleaded guilty at an early stage of the prosecution, although not at his first opportunity. This indicates he has accepted his wrong-doing. It has saved Court time and expense. However, I do not accept that it indicates any remorse, for reasons that will become obvious. In the circumstances, I reduce the sentence start point to reflect the prompt pleas by 20%.
13. Mr Lawac's relevant personal factors are as follows:



- Mr Lawac is now 40 years old. He advised the PSR writer he was married, but there is no evidence to support this. He also professes to be gay and suffers from prejudice arising from that fact – from the community generally and his immediate family. I accept this latter submission.
- He has not taken part in a custom reconciliation ceremony, although professes interest in doing so. I do not accept that. I consider that to be an attempt to appease the Court. Similarly I do not accept his professed remorse and promise to not re-offend – his past conduct makes a mockery of such claims.
- He claims to have repaid some of the stolen money but that has been denied by the complainants. I believe the complainants as to that.

14. There can be no reduction for these unexceptional personal factors.

15. Mr Lawac has previous convictions. By my count, he has a total of 28 dishonesty convictions, and one of indecent assault. He has been dealt with by the Courts on 15 separate occasions, with the majority of the sentences imposed involving relatively short terms of imprisonment. I note that attempts to release Mr Lawac early on parole have led to breaches of conduct. An uplift to reflect this factor is set at 6 months imprisonment.

E. Sentence:

16. The end sentence that I impose is 2 years imprisonment, on each charge. The sentences are to run concurrently.

17. Mr Lawac has been remanded in custody since 17 December 2020. The sentence start date is accordingly back-dated to take into account the time he has already served and to preserve his parole rights.

F. Suspension:

18. This offending is serious, and exhibits blatant dishonesty. The repeat nature of Mr Lawac's offending dictates that a suspension of any part of the sentence is simply not appropriate. If actual terms of imprisonment do not act as a deterrent for Mr Lawac as evidenced by his previous convictions, then a suspended sentence will certainly not do so. Further, unsuspecting members of the community deserve to be protected from a recidivist dishonest predator.

G. Other

19. Mr Lawac has 14 days to appeal if he disagrees with this sentence.

**Dated at Port Vila this 27th day of January 2021
BY THE COURT**

Gardie Uelle
Justice G.A. Andrée-Wiltens

