

PUBLIC PROSECUTOR

v

BRANDON TAROSA

Date: 4 June 2021
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr C. Shem
Defendant – Mrs P.K. Malites

SENTENCE

A. Introduction

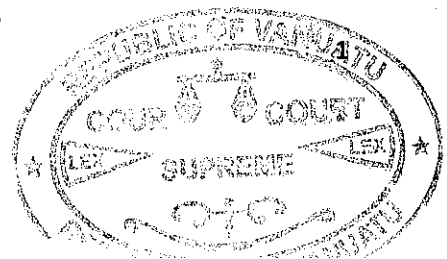
1. Mr Tarosa pleaded guilty to one charge each of unlawful entry of a dwelling house (Count 1) and theft (Count 2). Mr Tarosa is convicted on his pleas and the admitted facts.

B. Facts

2. Mr Tarosa is related to the complainant Lily Tarosa.
3. At around 2am on 11 February 2021, Mr Tarosa entered Mrs Tarosa's residence and then her bedroom at Number 2 SDA area, Port Vila. Mrs Tarosa awoke and saw Mr Tarosa in her bedroom (Count 1).
4. Mr Tarosa had taken VT20,000 cash from under Mrs Tarosa's pillow and her Realme smartphone. When Mrs Tarosa called out, Mr Tarosa ran away with the cash and phone (Count 2). Mrs Tarosa later confronted Mr Tarosa; the phone and VT4,000 were returned.
5. Mr Tarosa made full admissions to the Police.

C. Sentence Start Point and Personal Factors

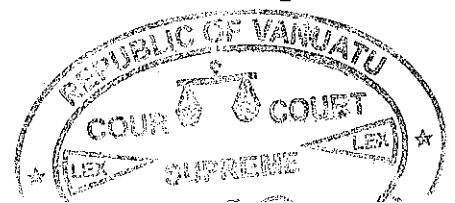
6. The sentence start point is assessed having regard to the maximum sentences available, and the mitigating and aggravating factors of the offending.



7. The maximum sentences prescribed in the *Penal Code* [CAP. 135] are:
 - a. unlawful entry of a dwelling house (subs. 143(1)) – 20 years imprisonment; and
 - b. theft (s. 125(a)) – 12 years imprisonment.
8. It is mitigating that Mr Tarosa returned the phone and VT4,000.
9. The offending is aggravated by:
 - The offending occurred at night time;
 - The effect on the victim – she feels unsafe in her own home; and
 - The financial loss suffered with no prospect of reparation.
10. The factors set out above require a global sentence start point of 2 years 6 months imprisonment.
11. Mr Tarosa committed this offending 6 days after he was sentenced to a suspended sentence of 2 years 2 months imprisonment for unlawful entry, theft and act of indecency as well as ordered to complete 100 hours community work and supervision for 3 years: *Public Prosecutor v Tarosa* [2021] VJUSC 20. An uplift of 3 months is added to the sentence start point.
12. A 33% reduction is made for Mr Tarosa's early guilty plea.
13. Mr Tarosa is 17 years old. He lives with his parents at Number 2 area, Port Vila. He is stated to be remorseful however that does not sit well with re-offending within a week of receiving a suspended sentence. Mr Tarosa is unemployed. He was expelled from school (Year 10) as a result of his offending. Mr Tarosa's offers to perform a custom reconciliation ceremony were declined until after he is released from custody. I deduct 6 months from the sentence start point for Mr Tarosa's youth and personal factors.

D. End Sentence

14. Taking all of those matters into account, the end sentence is 16 months imprisonment on the unlawful entry charge (Count 1), and 12 months imprisonment on the theft charge (Count 2). The sentences are to be concurrent, and are to run from 16 February 2021 when Mr Tarosa was taken into custody.
15. It would be entirely wrong to suspend this sentence in whole. However, I am prepared to suspend part of the sentence in view of Mr Tarosa's youth and to minimise his exposure to imprisoned long term adult offenders. Accordingly, 9 months of the sentence is to be suspended for 3 years. Mr Tarosa is warned that if he offends again within the next 3 years, he will need to serve the remaining 9 months of this sentence in addition to any other penalty that may be imposed on him for the further offending.
16. Mr Tarosa has already served 3 months 19 days in custody (which equates to an effective sentence of over 7 months imprisonment) therefore I order his immediate release. I



consider that the imprisonment that Mr Tarosa has served constitutes a deterrent element to the sentence, as well as holding him accountable for his criminal conduct. I urge Mr Tarosa to learn from his wrong-doing and that he will in future choose not to engage in criminal conduct.

17. Given the time already served in custody and because Mr Tarosa is under 18 years old, I consider his prospects of rehabilitation are better served by keeping him out of further imprisonment at this time. In the circumstances, I consider that it would be unjust to activate the suspended sentence ordered in *PP v Tarosa* [2021] VUSC 20 and decline to make an order concerning that suspended sentence: para. 57(1)(d)(ii), *Penal Code*. This of course does not prevent a Court from reactivating that sentence in future if necessary.
18. As noted above, Mr Tarosa was also ordered in *PP v Tarosa* [2021] VUSC 20 to complete 100 hours community work and supervision for 3 years. He will need to complete these.
19. In addition, Mr Tarosa is ordered to complete a further 100 hours of community work.
20. Mr Tarosa has 14 days to appeal the sentence.

**DATED at Port Vila this 4th day of June 2021
BY THE COURT**

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UM Trief
Viran Molisa Trief
Judge

