

BETWEEN: Public Prosecutor

AND: Polycarpe Rory
Defendant

Date: 24 August 2021
By: Justice G.A. Andrée Wiltens
Counsel: Ms L. Lunabek for Public Prosecutor
Mr L. Moli for the Defendant

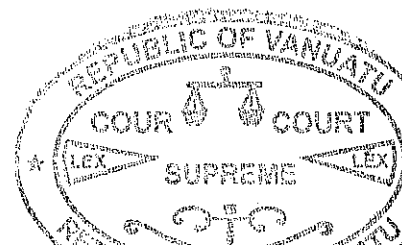
Sentence

A. Introduction

1. Mr Rory pleaded guilty to 3 charges of obtaining money by deception.

B. Facts

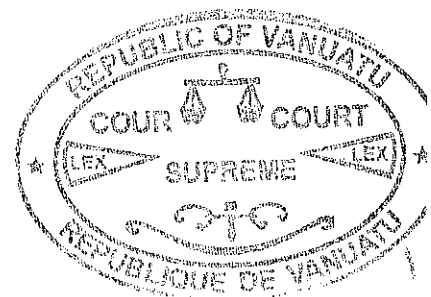
2. Between 1 September and 30 October 2020, the complainant of this matter was repeatedly duped by a family member working in conjunction with Mr Rory. Through a series of outright lies, they persuaded the complainant to give them money for a variety of fees, all supposedly related to their then being able to release VT 2 billion being held in Papua New Guinea. In return for his 'assistance' the complainant was promised VT 10 million.
3. In the end, the complainant gave Mr Rory a total of VT 354,000 in various amounts and at various times.
4. There was no large amount of funds in Papua New Guinea for Mr Rory, and the complainant did not receive what he was promised. In fact, he lost all his money. [Charge 1]



5. Mr Rory chanced upon the second complainant in September 2020 when both were obtaining their National Identity Cards at Independence Park. Mr Rory explained to the complainant that his sister could expedite the process whereby the complainant would get a Passport more quickly. In order to achieve this a fee of VT 9,000 was required to be paid.
6. The complainant gave Mr Rory VT 9,000 for this purpose, but he has not received a Passport in return. He has lost his money. [Charge 2]
7. In October 2020, Mr Rory sold a phone to a woman selling kava at Anamburu. Mr Rory then followed her home and introduced himself to her husband. Mr Rory showed the husband photos of a ship he said he had just bought and which he intended to bring to Vanuatu. He explained he required a fee of VT 39,000 to ease the Customs clearance.
8. The husband duly gave Mr Rory VT 39,000 for that purpose. Subsequently, in order to clear VT 2 billion held in the NBV bank in Papua New Guinea, Mr Rory asked the husband to give him VT 70,000. He promised in return to give the husband VT 1 million of that sum once the funds were available in Vanuatu. Mr Rory subsequently told the husband that the VT 70,000 was insufficient and he needed a further VT 40,000.
9. In all, the husband gave Mr Rory VT 149,000 for these purposes. He has lost all his money. There is no VT 2 billion at NBV in Papua New Guinea for Mr Rory, and he does not own a ship. [Charge 3]
10. When interviewed by the police, Mr Rory admitted his offending. He said that he did it for his daily activities. It is notable that to the PSR writer, Mr Rory explained this Was the fastest way he could make money to get his music career underway.

C. Sentence Start Point

11. The sentence start point is to be assessed by having regard to the maximum sentence available for this offending, and factoring in both the aggravating and mitigating aspects of the offending.
12. The maximum sentence for obtaining money by deception is 12 years imprisonment.
13. The offending is aggravated by the following matters:
 - The repeat nature of the dishonesty. The first complainant was duped on 6 occasions; and the third complainant on 3 occasions. In all, the 3 complainants were duped a total of 10 times;
 - Each charge involves a breach of trust, in that Mr Rory implied to the complainants that he was honest and trustworthy;
 - The total amount taken from others dishonestly over a 2-month period, namely VT512,000 –; and
 - The fact that there was pre-meditation and planning involved.
14. There are no mitigating aspects to this offending.



15. I adopt a sentence start point of 3 years imprisonment.

D. Personal Factors

16. Mr Rory pleaded guilty to the charge at an early stage. The evidence against him was very strong, and accordingly a guilty plea was really his only option. However, his plea indicates that he has accepted his wrong-doing, and it has also saved Court time and expense. For Mr Rory's prompt pleas, I reduce the sentence start point by 20%.

17. Mr Rory is now 33 years old. He had a girlfriend, who does not speak highly of him. He is largely unemployed but has grand aspirations of becoming a Member of Parliament and of having a music career.

18. He has no previous convictions.

19. Mr Rory has not performed a custom reconciliation ceremony, but states that he is willing to do so.

20. Mr Rory has entered into agreement to repay one of the complainants. His letter to that effect makes no mention of how this will be achieved. He also told the PSR writer that he would like to repay the other complainants once released and his music career is up and running. These statements are unrealistic. Mr Rory is in no position to repay any of the funds taken from others.

21. For Mr Rory's personal factors, I reduce the sentence start point by a further 3 months.

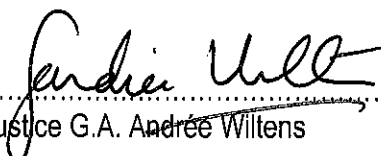
E. End Sentence

22. Mr Rory is sentenced to 2 years imprisonment, on Charges 1 and 3. On Charge 2, he is sentenced to 6 months imprisonment. The sentences are to all run concurrently, and to commence as from 3 March 2021 to take into account time already served.

23. This Court has a discretion to suspend all or part of the sentence in certain circumstances. In this case, that would undermine the important sentencing principles of holding Mr Rory accountable for his dishonesty and the need for a deterrent sentence to be imposed.

24. Mr Rory has 14 days to appeal the sentence.

Dated at Port Vila this 24th day of August 2021
BY THE COURT


Justice G.A. Andrée Wiltens

