



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

Criminal
Case No. 22/457 SC/CRML

BETWEEN: Public Prosecutor

AND: Trevor Kalo
Defendant

Date of SENTENCE: *24th day of May, 2022 at 9.00am am*
Before: *Justice Dudley Aru*

In Attendance: *Mr Tristan Karae for the Public Prosecutor*
Mr Lorenzo Moli for the Defendant

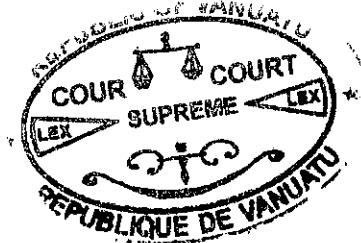
SENTENCE

Introduction

1. Mr Trevor Kalo pleaded guilty to 2 counts of unlawful entry, 2 counts of theft, 1 count of criminal trespass and 1 count of acts of indecency. He is convicted on his pleas and now appears for sentence.

The facts

2. There are 4 complainants .On 25 February 2021 the defendant went to Mrs I Toa's house around 2am in the morning .The complainant was asleep . She was woken up by her dogs barking and went outside with a torch. She saw the defendant .He had the complainant's blue container which contained cooked fish. When the complainant spoke to him he fled the scene.
3. On 8 November 2021 the second complainant Mrs L Pakoa reported that she was asleep around 3am in the morning when the defendant opened the door to the verandah and entered her home and took her mobile phone. She discovered her phone was missing in the morning when she woke up.
4. On 8 December 2021 the third complainant Mr T Loughman reported the defendant .He is the owner of the house the defendant entered. It was around 4 am in the morning when a Ms B Loughman saw the defendant in her bedroom. She shared the room with two of her sisters. When the girls saw the defendant he ran outside and hid behind a water tank. The girls followed him with a torch. When he saw them he fled covering his face with a black jacket.



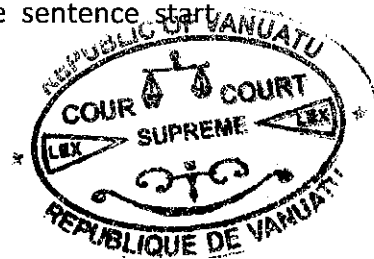
5. On the 9 December 2021 the fourth complainant Ms J Kalotano was asleep in her bedroom when she smelled body lotion next to her .She woke up and saw the defendant standing in front of her with a shirt covering his face. He told the complainant to be quite while he continued rubbing himself and rubbing the complainant's body .He was about to lift the complainant's skirt when she screamed . The defendant ran outside and left the house.
6. The defendant admitted his offending to the Police after he was cautioned and interviewed .

Starting point of sentence

7. The starting point of sentence is assessed by considering the maximum sentence available for the offending and taking into account any aggravating or mitigating factors of the offending .The maximum sentence for theft is 12 years imprisonment. Unlawful entry of a dwelling house used for human habitation is punishable by a maximum sentence of 20 years imprisonment. For acts of indecency the maximum sentence is 7 years imprisonment and for criminal trespass the maximum sentence is 1 year imprisonment.
8. The offending is aggravated by the following factors :
 - There is an element of planning
 - The offences occurred at night
 - A number of dwelling houses were involved
 - The offences occurred when the victims were asleep
 - There was loss of valuables
 - There was some property damage
9. There are no mitigating factors. The lead offence in this case is unlawful entry of a dwelling house used for human habitation. I adopt an overall starting point of sentence of 6 years imprisonment.

Mitigation

10. The defendant entered his guilty plea at the earliest available opportunity. The sentence will be reduced by 25% .
11. The Pre-sentence Report records that the defendant is not a first time offender. He is now 19 years of age and completed his education at the class 6 level due to financial difficulties. He has skills in gardening and carpentry and hopes to be able to do seasonal work overseas to support his family. No custom reconciliation has been performed as the complainants refused to be part of it .The defendant was remanded into custody on 21 December 2021 and remains remanded .
12. Taking into account the defendant's personal factors the sentence start point is further reduced by 12 months.



End sentence

13. The end sentence is therefore 3 years and 5 months imprisonment .On the charge of theft the defendant sentenced to 15 months imprisonment to be concurrent .On the charge of criminal trespass the defendant is sentenced to 3 months imprisonment to be concurrent and finally on the charge of act of indecency the defendant is sentenced to 6 months imprisonment to be concurrent.

14. The sentence is effective from 21 December 2021 when the defendant was first remanded into custody.

15. The defendant has 14 days to appeal if he disagrees with the decision .

DATED at Port Vila this 24th day of May, 2022.

BY THE COURT

Dudley Aru

Judge

