

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

**Criminal
Case No. 23/963 SC/CRML**

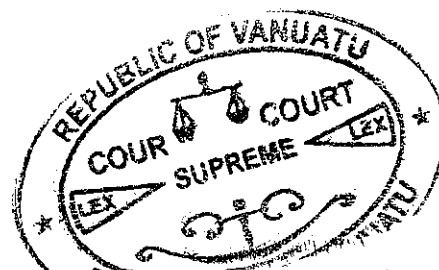
BETWEEN: Public Prosecutor

AND: Julian Waki and Tino Rocroc
Defendants

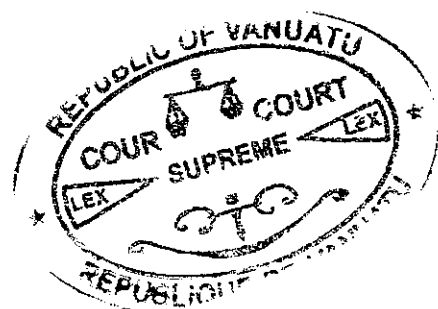
Date of PLEA: 10th July 2023
Date of Sentence: 21st July 2023
Before: Justice Oliver Saksak
In Attendance: Mr Gregory Simeon for Public Prosecutor
Mr Steven for the Defendant

SENTENCE

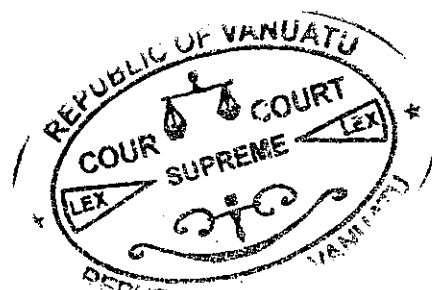
1. The defendants Julian Waki and Tino Rocroc were jointly charged with 2 counts of unlawful entry (Counts 1, and 6) and with 3 Counts of thef (Counts 2, 5 and 7). They both entered guilty pleas to those charges land under sections 143 (a) and 125 (a) of the Penal Code Act. Both defendants are for sentence today.
2. Defendant Julian Waki was charged singly for one count of unlawful entry (section 143 (a) – Count 3) and for one count of theft (section 125 (a) – Count 4). He too entered guilty pleas to these charges.
3. Both defendants are for sentence today.
4. Tino Rocroc is an 18 year old unemployed boy living at La Melis Area, Luganville. Julian WAKi is 20 years old and also unemployed living at Santo East Area.
5. There are four separate complainants namely Wilson Daniel, the Property and Asset Officer of the Reserve Bank of Vanuatu residing in Luganville, Angela Hungai, owner of Smuggler Seafood company in Luganville, Ian Ferry, a 74 year old expatriate working as a Building Manager and Merian Tete, a Bank Supervisor residing at the La Melis Area, Luganville.



6. The first offendings occurred on 4th and 7th August 2022 at the Reserve Bank building. The two defendants entered the premises by breaking the louvres. They gained entry and stole a lawn mower, a grass-cutter and a security jacket, the subject of the charges in Counts 1 and 2.
7. The second offendings occurred also on 4th and 7th August 2022 at Meriam Tete's house at La Melis Area. The two defendants entered the complainant's house during the day and stole a 40 inch flat screen, a music box and external drive and a jacket, the subject of the charges in Counts 6 and 7.
8. The third offendings occurred on 7th October 2022 at the Deco Stop Motel. Mr Ian Ferry had parked his truck and went gone the Motel premises for a while. The defendants took the opportunity, went to the truck and stole two suitcases, an iphone, running shoes, man's clothing, electric shaver and some other items and left the scene. When the complainant returned to his truck he realized he had been robbed when he discovered those items were missing. This is the subject of the charge in Count 5.
9. Finally the last offendings occurred on 18 March 2023 when Julian Waki by himself entered the smugglers seafood Restaurant and stole bottles of alcoholic drinks, 6 security lights and a black pistol torch light, the property of the restaurant. These were the subject of the charges in counts 3 and 4.
10. These are very serious criminal offences. Unlawful entry into a dwelling house carries the maximum of 20 years imprisonment and 10 years imprisonment of 20 years imprisonment and 10 years imprisonment where the place is not used for human habitation. And theft carries the maximum penalty of 12 years imprisonment.
11. The case of Kalfau v PP (1990) VUCA 9 lays down very clear guidelines for sentencing offenders who commit these offences. And I am bound to apply those principles.



12. These two defendants are young boys who are without employment. But that is no excuse to go about meet up and plan to enter other people's properties and steal from them. Those are unreasonable approaches. There are therefore no mitigating features for the offendings.
13. But there are clearly aggravating features from the facts such as the degree of planning and pre-meditation, joint criminal enterprise, repeated nature of offendings over time against different persons and entities, the effect and impact on the victims and the previous conviction of the defendant Julian Waki.
14. I have read the submissions by Prosecutions and defence counsel and considered them in sentencing the defendants.
15. Taking all the aggravating features without any mitigating circumstances together with the seriousness of the offences committed, custodial sentences are to be imposed on the defendants to mark seriousness of the offences committed, custodial sentences are to be imposed on the defendants to mark the seriousness of their offendings, to mark the Court's and public condemnations of their unlawful actions, to deter them and other like-minded people, to protect the embers of the community and to punish them appropriately for their actions.
16. I therefore convict and sentence the two defendants as follows-
17. I therefore convict and sentence the two defendants are as follows:
 - a) Julian Waki
 - For unlawful entry charged under counts 1, 3, and 6, 4 years imprisonment as the start sentence on all three counts to run concurrently.
 - For thefts charged under Counts 2, 4, 5 and 7, 4 years imprisonment as the start sentence on all four counts to run concurrently. The total sentence shall be 4 years to be served concurrently with the 4 years for the unlawful entry charges. Your overall sentence shall be 4 years imprisonment.



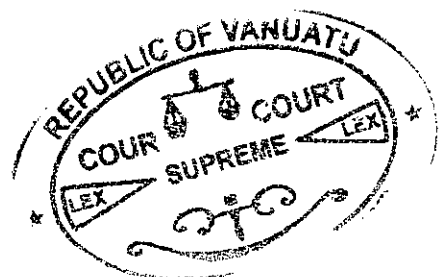
- b) Tino Rocroc
- For unlawful entry charged under counts 1 and 6, 3 years imprisonment as the start sentence on all 2 counts to run concurrently.
 - For theft charged under counts 2, 5 and 7, 3 years imprisonment on all 3 counts to run concurrently. These 3 years shall be served concurrently with the 3 years imprisonment for the 2 unlawful entry charges. Your overall sentence shall be 3 years imprisonment.

18. I now turn to mitigation. I have read the defendants' pre-sentence reports and note their characters and personal history. I will allow some reductions for those factors together. But first I consider their guilty pleas. I accept they are both entitled to the full 1/3 reduction. For Julian Waki it will be 16 months or 1 year, 4 months leaving the balance to be 2 years and 8 months. For your other personal factors including the pre-custodial period, a further reduction by 8 months. Your end sentence shall be exactly 2 years imprisonment.

As a second time offender, your sentence will not be suspended. Your sentence will be effective after 14 days from today on 4th August 2023 at 9:00am when you will present yourself to Correctional Centre to serve your time.

19. For you Tino Rocroc, your total concurrent sentences of 3 years imprisonment is reduced by 1/3 for guilty pleas by 1 year. Your balance of the sentence is 2 years imprisonment. For your other personal factors I reduce your balance further by 6 months leaving the end sentence to be 1 year and 6 months (18 months).

20. Your sentence is however to be suspended for 2 years. In addition, you are sentenced to community work for 100 hours to be performed within 12 months and with supervision for your rehabilitation. You must report to the Probation Services within 72 hours for further guidance. A



separate order will be issued in relation to the sentence of Community work and Supervision for a period of 2 years during which sentence is suspended.

DATED at Luganville, this 21st day of July 2023

BY THE COURT


OLIVER A. SAKSAK

Judge

