

PUBLIC PROSECUTOR

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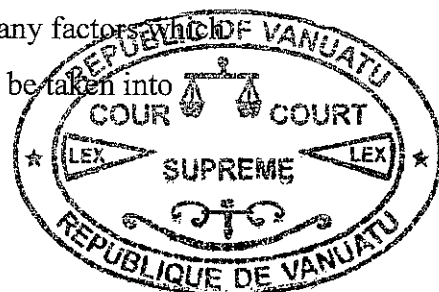
ABANG JOHN

Date of Sentence: *6th day of October, 2023 at 1:30 PM*
Before: *Justice E. P. Goldsbrough*
In Attendance: *Mr. J, Aru for Public Prosecutor*
Ms. C. Dehivanua for Defendant

SENTENCE

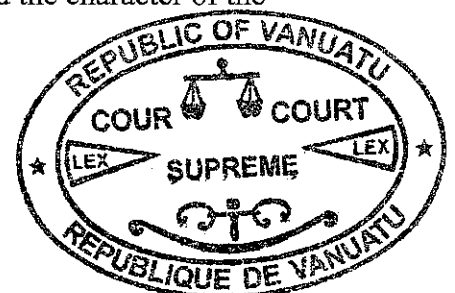
Sentence

1. This part of the decision concerns Abong John. He was charged and convicted at the same time as Fati Jimmy. Fati Jimmy, however, at the time of this offending, was on licence from prison and is therefore subject to recall. Until his status has been confirmed, he will not be sentenced. Abong John has waited long enough to hear what sentence will be imposed on him and so a decision has been taken in these exceptional circumstances, to sentence the offenders separately.
2. Abong John pleaded guilty to a total of four offences, two each of unlawful entry of a dwelling house and two offences of theft. In effect, two incidents. The property stolen by Abong John was two pairs of shoes, both of which were recovered.
3. During a bout of drinking, the accused in the company of others decided there was a need for further alcohol. To this end, the unlawful entry and theft offence took place. The shoes, it was said, could be sold to fund further alcohol purchases. There is little more that can be said about the offences.
4. The maximum penalties for these offences together with any factors which make these particular offences more or less serious are to be taken into



account when determining sentence. The maximum penalties are twenty years imprisonment for unlawful entry and twelve years imprisonment for theft. The factors which aggravate these offences, agreed by counsel are that these offences took place whilst people were sleeping in their homes, the offending involved a degree of planning and between the two of them, multiple items were taken. It has to be said that the co-accused took most of the items, more than Abong John.

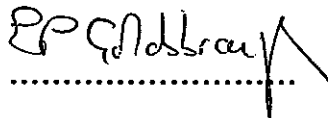
5. According to precedent, this offending compared with other cases of unlawful entry and theft from a dwelling house falls at the lower end of the scale of offending. A similar case was taken before the Court of Appeal recently where the length of the sentence of imprisonment for unlawful entry and theft of shoes was confirmed. In that case, a starting point of 22 months was adopted in relation to the accused charged with fewer offences and who stole less.
6. In this case, a starting point of twelve months imprisonment is adopted. Turning to consider what adjustment is required from the starting point, a guilty plea was entered at the earliest opportunity and for that, a reduction in sentence is required. The offender has spent 23 days in pre-sentence custody. That must be taken into account when fixing the final sentence. The offender has no previous convictions. That is also taken into account.
7. A discount of 33% is fixed for the early guilty plea. There are no other reductions awarded for other personal factors. There has been no reconciliation in custom. That brings the starting point down to 8 months. With the reduction due for time spent in custody pre-sentence an end sentence of 6 months appears to be the most appropriate.
8. As recited earlier, this defendant has not been in trouble before. To that end, when the Court considers the sentence of imprisonment it is obliged to consider suspension and, indeed, suspension of the sentence appears the right thing to do considering the nature of the offence and the character of the offender.



9. It is further submitted that the offender may benefit from an order requiring him to perform unpaid community work in addition to a suspended sentence. The Court agrees.
10. The sentence of the Court is a sentence of six months imprisonment for each offence to run concurrently and suspended for one year and in addition an order that the accused performs community work for 50 hours within the next twelve months.
11. Both the effect of the suspended sentence and appeal rights are explained.

DATED at Port Vila this 6th day of October, 2023.

BY THE COURT



Justice E. P. Goldsbrough

Judge of the Supreme Court

