

PUBLIC PROSECUTOR

v

EDDIE PHILIP

Coram: *Hon. Chief Justice V. Lunabek*

Counsel: *Mr K Massing for the State*
Ms F Kalsakau for the Defendant

Date of Plea: *22 August 2022*

Date of Sentence: *9th October 2023*

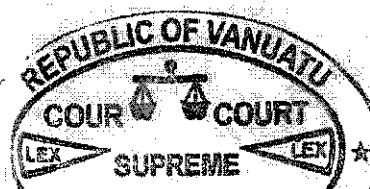
SENTENCE

A. Introduction

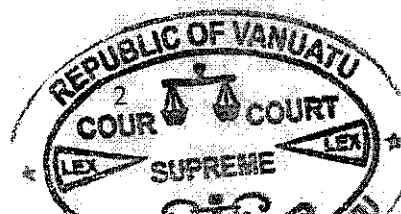
1. Mr Eddie Philip ("*Mr Eddie*"), this is your sentence. On 22 August 2023, you entered guilty pleas on two counts of unlawful entry into a dwelling house on two different dates with the intention to commit a crime such as stealing, contrary to sections 143(1), 125, 143(1) and 28 of Penal Code respectively.

B. Facts

2. The complainant Charlot Evaristo resides at Teouma Garden and you also reside there. You are 21 years old. You are a male decent of the island of Ambrym. But you were born and raised in Port Vila, Efate. You normally reside with your parents at Teouma Garden. But because of your offending, you reside with your grandmother at Anabrou area, Efate.
3. On 8 April 2023 at Teouma Garden in the morning, the complainant returned home from church and realized that some unknown person had broken into his home, the complainant noticed that the louvres from the window of his house have been removed and curtains were opened. He observed



- that it looked like someone had opened the curtains. He observed also that there was damage to the doorknob of the door of his house (Count 1).
4. When the complainant went inside the house, he observed that most of the things inside the house were turned upside down and it looked like someone had moved items around looking for something. The complainant checked the house and found various items missing. The missing items included a cash box containing VT40,000 Loop Station RC500 (Valued at VT60,000), a brand-new toolbox (valued VT50,000), a duty-free alcohol, safety boots and knives (Count 2).
 5. The complainant informed his partner who was away travelling on business. The next day Sunday 9 April 2023, the complainant put a notice on his door warning the thief that he will find the thief. The complainant also reached out to his families to look around and watch for any of the stolen items.
 6. On Tuesday 11 April 2023, the complainant left his home to go to work when he reached his office, he realized he forgot the keys to his office and rushed back to Teouma.
 7. When the complainant reached Teouma he parked his bus halfway on the road and walked along a shortcut to get to his house. When the complainant reached his house, he noticed you, Mr Eddie, were trying to break open a window to the complainant's house using a spoon, the complainant recognized it was you as you were a familiar face to him around the Teouma garden area.
 8. The complainant called out to you. You saw the complainant, you then ran away and jumped over a fence and disappeared. The complainant chased after you when you ran to your neighbourhood. The complainant's neighbour also confirmed that you had ran in speeding manner past them.
 9. The complainant's family approached your family to ask for the stolen items to be returned.
 10. On 27 April 2023 the following police officers, CRO Cpl Nina Biagk along with Inspector Terry Lapinpal, PC Leimas Kalman went with you to recover the items stolen by you.
 11. You showed the police officers where you had hidden the items and police officers recovered a HP Laptop, and a music mixer. The complainant identified and confirmed the laptop and the music mixer as his.
 12. A record of interview was conducted on 27 April 2023, you understood your rights and the allegations against you. In your statement, you stated you came across the complainant's house and saw there was no one and decided to steal. You further admitted that you broke into the complainant's house twice and third time you were caught by the complainant. You admitted you stole tin money, alcohol drink, laptop, mixer electronic devices. You admitted that when you broke into the house by removing the louveres of the window, you apologized and understand it is against the law.



C. Sentence Start Point

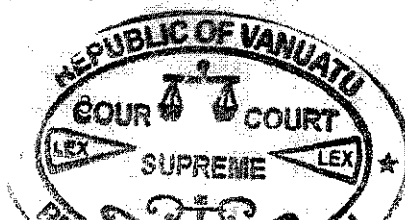
13. The maximum sentence for unlawful entry, theft and attempted unlawful entry are respectively:-
- Imprisonment for 20 years;
 - Imprisonment for 12 years; and
 - Imprisonment for 20 years.
14. The nature of the offending are serious. The circumstances of the offending are aggravated by the fact that you damaged the doorknob of the complainant's door to unlawfully enter into his dwelling house. You stole items (properties) valued more than VT150,000. Some of these stolen items were recovered by the police. There was a repetition of the offending.
15. You are sentenced to a sentence start point of 4 years imprisonment for unlawful entry and 3 years imprisonment for attempted unlawful entry and 3 years imprisonment for theft. They are concurrent to each other. Your highest sentence is 4 years imprisonment.

D. Mitigating Factors

16. You are a first-time offender. You do not have previous convictions. You have a good relationship with your family and community. I reduce your sentence for 6 months to reflect your mitigating facts.
17. I reduce further your sentence by 33% to reflect your early guilty pleas given at the first opportunity by the authorities. Your sentence is reduced to 28 months imprisonment.

E. End Sentence

18. Your end sentence is 28 months (2 years and 4 months) imprisonment.
19. I consider whether your sentence term of 28 months imprisonment could be wholly or partly suspended. I consider the nature and the circumstance of the offending, your character as the offender, I decide that your sentence is to be only partly suspended. You are going to serve the two-third of the imprisonment term as a deterrence for you and others. I order that you serve the 19 months imprisonment and the balance shall be suspended for a period of 2 years.
20. Your imprisonment term sentence of 19 months is to be effective on Monday 23rd October 2023 in accordance with Section 50 of the Penal Code.
21. If you elect to start serving your imprisonment sentence today, you can do so. If you chose not to start serving your sentence of 19 months imprisonment today (9th October 2023), you must start



serving your sentence on Monday 23rd October 2023 by presenting yourself to the Correctional Services Centre in Port Vila.

22. The Correctional Services Centre has to manage, coordinate and record the date Mr Eddie starts serving his sentence.
23. If Mr Eddie fails to start serving his sentence of 19 months imprisonment on Monday 23rd October 2023, the Correctional officers can directly apply to the Supreme Court for a warrant to arrest Mr Eddie or inform the Public Prosecutor to apply for one. Once Mr Eddie is arrested, he shall be brought directly to the Correctional Centre to start serving his sentence.
24. You have 14 days to appeal against this sentence if you are unsatisfied with it. The 14 days starts at the date of this sentence.

Dated at Port Vila, this 9th day of October, 2023

BY THE COURT


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Hon. Chief Justice Vincent LUNABE

