

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

Criminal Case No. 25/3500 SC/CRML

BETWEEN: PUBLIC PROSECUTOR
Port Vila

The State

AND: Maurice Kelly
Port Vila

Defendants

Date of plea: 25 November 2025
Date of Sentence: 19 December 2025
Before: Justice B. Kanas Joshua
Counsels: Mr Tristan Karae, for the State
Mr Cecile Dehinavanua, for defendant

SENTENCE

Introduction

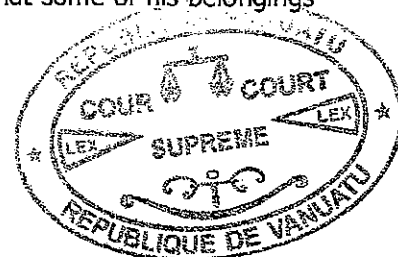
1. Mr Maurice Kelly, you appear in court today for sentence, after you pleaded guilty to the following charges on 25 November:
 - a. 2 counts of unlawfully entering a dwelling house¹; and
 - b. 2 counts of theft².
2. This sentence is to hold you responsible for your actions so others, who also behave this way, can see that they are breaking the law and can get punished, so they can stop their actions. This sentence must be generally consistent and should help you to rehabilitate.

Facts

3. In May 2025, you went to two houses and stole items from those houses. The houses belong to Clement Mindua and Joshua Assack ("the complainant") and they live at Teouma. On 24 May 2025, you went to Joshua Assack's house and stole 2 bicycles, a grasscutter and a pair of safety shoes. Two days later, you went to Clement Mindua's house and stole there again. You damaged the window screen by cutting it open, then you climbed through the window and went inside the house where you removed a solar panel, a chainsaw, 2 safety shoes, 2 sneakers, 2 JBL speakers, 2 bush knives, 1kg rice, 2 tin fish, 1 pair of black slippers, 1 pistol torch, 1 body oil, 1 bottle perfume, 1 plate and 1 spoon. The complainant was not home at the time and when he returned, he noticed the damaged window screen. He entered the house to discover that some of his belongings were stolen.

¹ Section 143(1) of the Penal Code Act (CAP 135).

² Section 125(a) of the Penal Code Act (CAP 135).



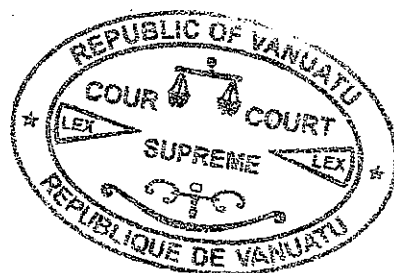
4. Clement then went to Joshua's house, who is his neighbour, the following day and was told of the incident. They sought the assistance of chief Edward, who was able to locate the complainants' belongings at the defendant's house. The defendant's spouse also confirmed that the defendant had taken the items.
5. Under caution, the defendant admitted to the allegations.

Starting point

6. In determining a starting point, the maximum penalties and the mitigating and aggravating factors of the offending are assessed. The maximum penalties of the offences are:
 - a. 20 years imprisonment (unlawful entry of a dwelling house);
 - b. 12 years imprisonment (theft).
7. The aggravating factors of the offending are:
 - a. The defendant offended against 2 different complainants at Teouma;
 - b. The stolen items are expensive;
 - c. The offending was premeditated and well planned – the defendant went to the houses when there was no one at home;
 - d. The defendant damaged the property to enter one of the complainant's houses;
 - e. The defendant had the intention to commit theft;
 - f. The complainants sustained financial loss;
 - g. There is a breach of trust; and
 - h. The victims sustained feeling of fear and insecurity.
8. There are no mitigating factors of the offending.
9. The case of *Cyriaque Meltek v. PP*³, was referred to by the prosecutor. In that case, the appellant appealed against the end sentence of 2 years 4 months. He had pleaded guilty to one charge of unlawful entry of a dwelling house and one charge of theft, in the sentencing court. The sentencing court had set a starting point of 4 years imprisonment for unlawful entry, and 3 years imprisonment for theft, to be served concurrently. The sentence was not suspended and the appellant appealed against the severity of the sentence. In re-sentencing, the court of appeal set a starting point of 3 years imprisonment.
10. Defence point out that the defendant in *Meltek* is a repeated offender. In the present case the defendant is a first-time offender. The case of *PP v. Fila*⁴, was referred to as guide to a starting point. The defendant was charged with 3 counts of theft and 2 counts of unlawful entry, and all stolen items were recovered except VT3,000. A global starting point of 3 was adopted. Defence acknowledges that the present case is slightly less serious than *Fila*, however, they submit that 3 years is an appropriate starting point.

³ [2025] VUCA 41.

⁴ [2020] VUSC 164.



11. As in *Fila*, I adopt a global starting point of 3 years imprisonment.

Guilty plea and personal factors

12. From the starting point deductions for the guilty plea and personal factors of the offender are made. I give a $\frac{1}{3}$ discount, bringing the sentence to 2 years imprisonment.

13. For the other mitigating factors, I further reduce the sentence by 2 months:

- a. You have a wife and 2 young sons, who depends on you.
- b. You entered an early guilty plea – and you are remorseful.
- c. You cooperated with the police.
- d. You are a first-time offender.

14. This brings your sentence to 22 months imprisonment. A further deduction must be made for the time spent in remand. You were remanded since 28 May 2025 to date. This is a total of 6 months 21 days, which is equivalent to an effective sentence of 13 months 12 days. In deducting this, it brings your sentence to 8 months 18 days.

End sentence

15. Mr Maurice Kelly, you are sentenced to 8 months 18 days imprisonment.

16. In considering a suspension, I take into account that this your first encounter with the law and you have spent over 6 months in remand. That is enough time to learn your lesson. I am suspending your sentence under supervision, for 12 months. In that time, you must not reoffend. If you do, you will be arrested and you will serve this sentence with any new offences that you commit.

17. To help with your rehabilitation, you must do 60 hours of community work.

18. You have 14 days to appeal.

Dated at Port Vila on this 19th day of December, 2025

BY THE COURT

Justice B. Kanas Joshua
Justice B. Kanas Joshua

