

PUBLIC PROSECUTOR

-v-

SAMUEL BULE MOLSIR

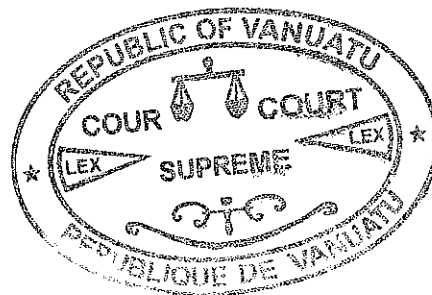
Coram: *V. Lunabek- CJ*

Counsel: *Mr. Simcha Blessing for Public Prosecutor*
Mr. Francis Tasso for the Defendant

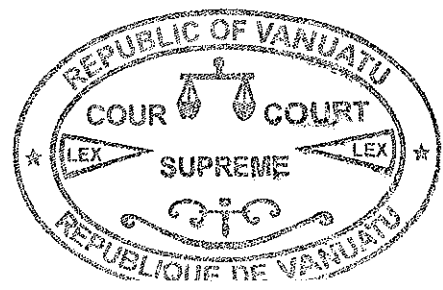
Date of Sentence: 15 June 2017

SENTENCE

1. Samuel Bule Molsir, you appear for sentence on offences of unlawful entry (Count 1), theft (Count 2) and arson (Count 3) you committed on 6 November 2013 at the Teouma Garden Area.
2. Sections 143(1), 125(a) and 134(1) are the relevant provisions of the Penal Code Act that you have breached when you committed these offences on 6 November 2013 at the Teouma Garden area.
3. Unlawful entry into a dwelling house is a serious offence with a maximum penalty of 20 years imprisonment where the place is used for human habitation. Theft is also a serious offence with a maximum penalty of 12 years imprisonment. The maximum penalty of the offence of arson is 10 years imprisonment.

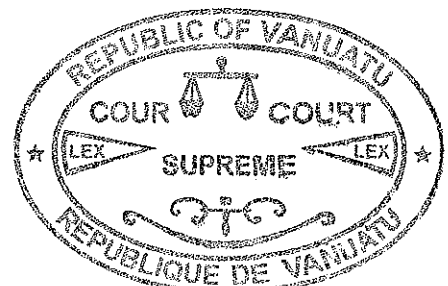


4. You are liable to each of these maximum penalties: unlawful entry to a dwelling house – 20 years; theft – 12 years and arson – 10 years imprisonment.
5. Those high level of penalties reflect the seriousness of these offences. They indicate the intention of Parliament which makes the law that high level of penalties must be imposed on anyone who committed these offences based on the factual circumstances of his or her offending.
6. In this case, the summary of the facts of your offending is this:
7. On or about the 7th of November 2013, around 7.40a.m., the complainant Atinies Meltesevi lodged a complaint against you for the following offences of unlawfully entering a dwelling house; theft and arson.
8. The complainant stated that these incidents occurred on the 6th of November 2013 around 11:00hrs to 12:00hrs in the daytime. During these hours the complainant and her family were not at home. The complainant confirmed that she went to the Vila Central Hospital and from there she went to church.
9. On the 6th of November 2013, when the complainant arrived at her home lately in the afternoon, she noticed that her house was burned down including other valuable properties that were inside the house. At this stage, her husband Ray Sale was still away in Santo.
10. Upon Ray Sale's arrival from Santo, he went to the crime scene and figured out that his son's bicycle and two torches laisers were missing



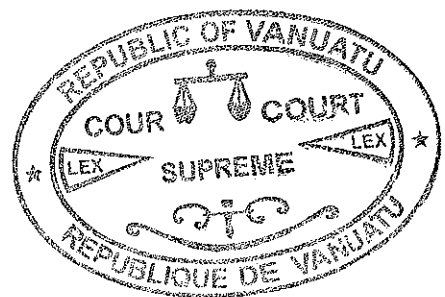
before the house was destroyed by fire. He confirmed that he noticed and saw the other properties were destroyed by the fire but the above mentioned properties were missing.

11. On the 8th of November 2013, Ray Sale recovered the bicycle from a person namely Isso Jimmy, a native of Tanna. Ray Sale confirmed that Isso Jimmy rode this bicycle on the road passed his yard at Teouma Garden area, so he discovered the bicycle and stopped Isso Jimmy and told him that the bicycle belonged to his son. Ray Sale then told Isso Jimmy that an unknown person had stolen this bicycle and burned down his house. Therefore, on the same date Ray Sale then called the police and reported that he had already recovered the bicycle.
12. On the 9th of November 2013, around 10:30am, you were arrested by the police at Etas area, Efate and conveyed to the Vila Police Station. At the station, you then admitted that you burned down the complainant's house and was detained in cell 6.
13. On the 10th of November 2013, around 08:32am, you were interviewed under caution and you then admitted the allegations that were laid against you. You further stated that you used an iron bar to break and unlock the lock of the door before you went inside the complainant's house.
14. While inside the complainant's house, you admitted you stole a bicycle and two torches laisers. You then took the bicycle outside and put it over the complainant's fence yard to the other side.
15. You also admitted that you then went back inside the complainant's house again and saw a match on the table. You then used the match



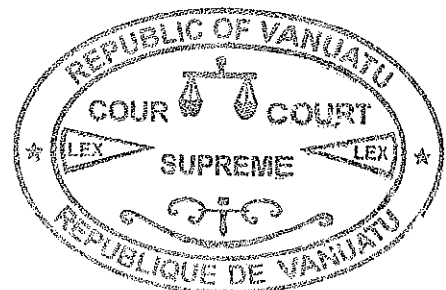
to light up a pillow and threw the pillow on top of the mattress and run away. As a result, the complainant's house was burned down by the fire.

16. On the facts as admitted by you, not only you committed these offences but you forced your entry into the house of the complainant when you used an iron bar to break and unlock the lock of the house on the door before you went inside. This is an aggravating aspect of your offending on 6 November 2013.
17. Further the report shows that your offending is premeditated and planned to steal the bicycle belonging to the child of the victim. The value of the properties destroyed by the fire is assessed at Vatu 3,000,000 Vatu. A all family was prejudiced by the loss of their house. The report also shows that you wanted to conceal your crime by attempting to dispose of evidence. That is another serious and aggravating circumstance of your offending.
18. There is also another direct impact on the victim apart from the loss of their house. Your daddy (Gabriel Bule) attempted to make a compensation arrangement toward the burned house and other lost properties. Some payments were made amounting to Vatu 50,000 Vatu but then stopped and excuses made. I treat this as a separate matter that the victim/complainant could proceeding against the Accused and his family in Civil Court for compensation.
19. You are sentenced to 6 years imprisonment for unlawful entry into the sleeping house of the complainant; you are sentenced to 6 years imprisonment for the theft of the bicycle and the two torches laisers

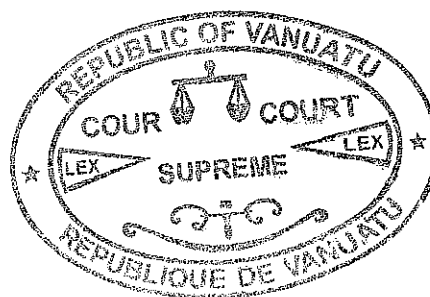


and 6 years imprisonment for deliberately and cowardly without justification set fire to the sleeping house of the complainant to conceal your crime.

20. In mitigation, you are a first time offence. You are remorseful. You pleaded guilty on the first opportunity given to you by the Court.
21. I take it that your sentences on the offence of unlawful entry (count 1), theft (count 2) and that of Arson (Count 3) will be run concurrently.
22. You will serve together at once a total term of 6 years imprisonment.
23. Your lawyer placed emphasis on the fact that, you are a first time offender. You are remorseful for what you did. You pleaded guilty at the first time opportunity given to you by the Court. You are entitled to a 1/3 discount of the total sentence of 6 years imprisonment.
24. It is noted that these offences occurred in November 2013. You are now entering guilty pleas on 16 May 2017 and will be sentenced on 15 June 2017. There is a delay of 3 years and ½.
25. You were called for pleas in the Supreme Court on 18 March 2014, you failed to appear. You were summoned to appear for plea and you failed to appear on the following dates and times: 15 April 2014; 7 July 2014; 29 July 2014, 2 September 2014; 29 September 2014; 29 October 2014; 18 November 2014 at 9.00 a.m. A warrant of arrest was issued against you on 18 November 2014. Another warrant of arrest was issued against you on 2 December 2014 at 9.00a.m. This warrant of arrest was an open warrant until you were arrested.



26. On 26 April 2017, the Court was informed you were arrested. A conference was held. The matter was listed for plea on 16 May 2017 at 9.00 a.m.;
27. You pleaded guilty on the offences charged against you on each of the three counts.
28. I do not think you are entitled to any discount for the delay. However, because of your youth, I give you a discount of 3 months.
29. Any time already spent in custody will be taken into account.
30. Your end sentence is 3 years and 9 months imprisonment.
31. The next question is whether the circumstances of this case warrant a suspension of your imprisonment term of 3 years and 9 months.
32. In this case, you are a first time offender. You plead guilty. You felt remorseful. You want to say sorry. You are a young boy of 16 years of age when you committed these offences in 2013. I take into account of your rights under the Convention on the Rights of the child. I think, I will give a chance to rehabilitate in the society.
33. I am ready to suspend your sentence of 3 years and 9 months.
34. I now order that your terms of 3 years and 9 months imprisonment be suspended for a period of 2 years. In addition, I order that you serve 6 months probation under the general conditions to be set out by the Probation Officer. You are also ordered to serve probation under the specific conditions set out therein.

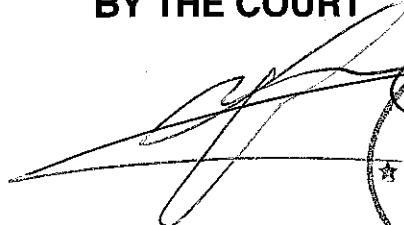


SENTENCE ORDERS

1. You are sentenced to an end sentence of 3 years and 9 months which is suspended for a period of 2 years.
2. You are also sentenced to 6 months probation under the standard terms and terms to be specified therein by the Probation Officer.
3. You are entitled to appeal against this sentence if you are unsatisfied with it. You have 14 days to appeal it beginning today.

DATED at Port Vila, this 15th June, 2017.

BY THE COURT


V. LUNABEK
Chief Justice

