

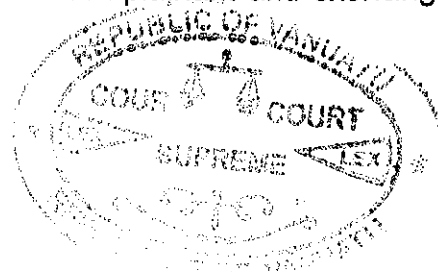
PUBLIC PROSECUTOR vs- MIKIE SHEMI

Coram: *Justice D. Aru*

Counsel: *Ms. B. Ngwele for the Public Prosecutor*
Mr. F. Tasso for the Defendant

SENTENCE

1. Mikie Shemi you appear today for sentencing. You pleaded guilty to one count of unlawful entry contrary to section 143 of the Penal Code and one count of theft contrary to section 125 a) of the Penal Code and you were convicted accordingly. Unlawful entry is punishable by a maximum penalty of 20 years imprisonment if the place is used for human habitation and theft is punishable by 12 years imprisonment respectively.
2. The brief facts of your offending are not disputed. On 12 October 2014 at night you and Jepeth Tui broke into Ian Russell Rhodes house and stole 2 cartons of spirits (hot drinks) estimated at VT 144,000 and ran away.
3. No pre-sentence report was provided by your probation officer but Counsel on your behalf Mr Tasso has provided the following information about yourself. You are now 22 years old and this is your first offending. You committed the offence when you were 19 years old. You are a farmer and you live in a de facto relationship and you have a 1 year old child. You live with your parents at Sara village and earn your living to support your family by making copra and planting vegetables.
4. The prosecution submits that your offending is aggravated by the fact that the offending occurred at night and the goods which were worth an estimated value of VT 144,000 were never recovered.
5. You performed a custom reconciliation with the complainant and exchanged the following items:-



- VT 5000 as fine
 - One (1) stamba kava worth VT 2000
 - One (1) mat worth VTV 1000
 - One (1) pig worth VT 5000
6. Ms Ngwele for the prosecution submits that I adopt the principles outlined by the Court of Appeal in **Kalfau v Public Prosecutor** [1990] VUCA 9 when considering sentence. There the Court said:-

"It is appropriate to pause and consider the offences of unlawful entry and theft themselves, in a place where such offences are few, it may be possible to pass short sentences..."

7. The prosecution submits that I adopt the same sentence imposed on Japeth Tui in **Public Prosecutor v Tui** [2016] VUSC 23 as you were both charged with the same offence with the same facts of the offending. Counsel on your behalf also submits that I adopt the same sentencing approach applied in **Tui**.
8. Mikie Shemi as this is your first offending I hope the sentence I impose on you today as punishment for your offending will deter you from committing similar offences in future and also to other like-minded individuals. You are therefore sentenced as follows:-

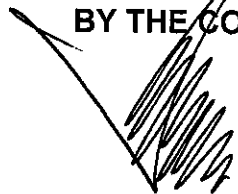
- For Count 1 – unlawful entry: 100 hours of community work
- For Count 2 – theft: 50 hours of community work

9. You are to do a total of 150 hours community work within a period of 12 months under the supervision of Corporal Willie Daniel and as directed by the probation officer.

10. You have 14 days to appeal your sentence if you are not happy with it.

DATED at Rovo Bay this 28 day of September 2017

BY THE COURT



D. Aru
Judge

