

IN THE SUPREME COURT OF VANUATU
HELD AT LAKOTORO

Crim Case
Case No. 16/1493/CRML

BETWEEN: Public Prosecutor

AND: Geoffrey Mokro

Date of Hearing: 22 October 2019
Court: G.A Andrée Wiltens
Counsel: Mr K. Massing for the Public Prosecutor
Mr E. Molbaleh for the Defendant

JUDGMENT

A. Introduction

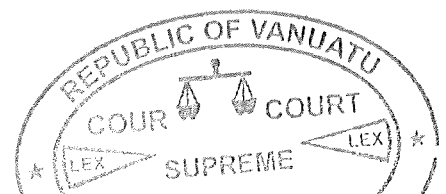
1. This was a criminal trial scheduled to be heard during the current Malampa tour.
2. The trial could not proceed due to the absence of the complainant.

B. Application

3. Mr Massing sought an adjournment. The complainant of this matter could not be located to give evidence at trial. The information provided to the police is that she is now working on a tourist boat, and is not due to return to Vanuatu until sometime in November 2019. Mr Massing sought an adjournment until after the complainant had returned to Vanuatu.

C. Response

4. Mr Molbaleh submitted that this case should be dismissed. It is old – the alleged offending occurred in November 2012. His client has previously gone through a trial, been convicted and sentenced, and then faced a prosecution appeal against an alleged inadequate sentence. The



appeal succeeded and the penalties were increased. Then Mr Mokro appealed out of time against his conviction, and following that this re-trial was ordered.

5. In the meantime Mr Mokro had served almost 15 months of the end sentence of 3 years 9 months imprisonment imposed prior to his appeal being heard, and virtually completed the 200 hours of Community Work ordered. Mr Molbaleh submitted to further delay this matter, bearing that background in mind, was unfair and would leave his client in suspense for a further indefinite time.

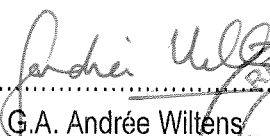
D. Discussion

6. The charge is a serious matter, and one which is usually in the public interest to pursue. However, to try an alleged 2012 offence some 7 years after the event does impact on the public interest aspect of the prosecution.
7. There is real concern as to when the trial could realistically occur. The next Malampa tour will be held in 2020, at a time/date yet to be determined. The fact that the complainant may return to Vanuatu in November 2019 is therefore of little consequence.
8. As a matter of fairness, the prosecution is not able to continually seek adjournments and leave serious criminal charges hanging over the head of the defendant. Some adjournments are unavoidable and are granted for good cause. However, there has to be a cut-off date by when the charge is heard – to allow perpetual deferment is wrong and contrary to an individual's right to have a fair hearing within a reasonable time, as provided for in the Constitution. As numerous authorities have made clear, the longer the delay between an event and the trial the greater the unfairness to the defendant.

E. Result

9. The charge against Mr Mokro is dismissed for want of prosecution. He is now free of this allegation at last, and is free to go.

Dated this 22nd day of October 2019 at Lakatoro Supreme Court


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Justice G.A. Andrée Wiltens

