

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

**Criminal
Case No. 22/2019 SC/CRML**

BETWEEN: Public Prosecutor

**AND: Jeffery Siko Narai
Malachai Paul Moraja
Defendants**

**Coram: Justice Aru
Counsel: Mr. L. Young for the Prosecutor
Mr. L. Moli for the Defendants**

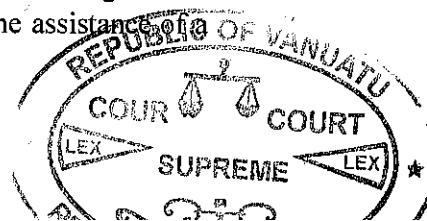
SENTENCE

Introduction

1. Jeffery Siko Narai and Malachai Paul Moraja pleaded guilty to one count of theft (count 1). Two other theft charges (counts 2 and 3) were nollied by the prosecution. This is their sentence on their guilty plea.

The facts

2. On 26 January 2022 the complainant drove his Hyundai Tucson 2005 registration No 8854 to Nicky Don's garage at Vila North for a mechanical check. He parked the car without turning off the engine and walked into the garage. He heard someone shouting "eh truck I go" and heard someone slamming the car door shut and the car engine accelerating. He ran out but the defendants had left with the car.
3. A driver passing by told the complainant he saw the car near Wan smol Bag with Jeffery Siko Narai driving and Malachi Paul Moraja seating beside him in the front passenger seat. Other road users also saw them driving at great speed and told the complainant the direction they were travelling.
4. The car broke down at Tamate village and the defendants left it and took a narrow path down to Tamate stream. Nearby villagers apprehended them suspecting that they stole the car. Whilst the villagers were trying to move the car from the middle of the road, the defendants escaped.
5. The complainant tried starting the car the next day without success as the engine was covered in grass and the head cylinder was soaked in water. With the assistance



friend the complainant was able to tow the car to a garage near the airport area for further inspection which revealed further damage to the car engine.

6. The complainant bought the car for VT 1,200,000. When cautioned by the Police, the defendants chose to speak only in Court.

Starting Point

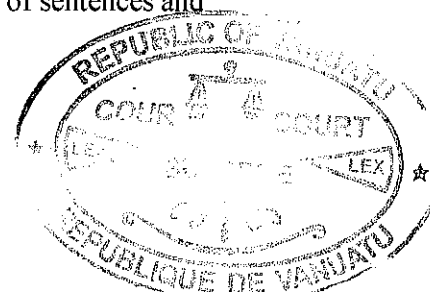
7. The maximum sentence available for theft is 12 years imprisonment. The offending is aggravated by the fact that this was a joint criminal enterprise which result in the car engine being badly damaged.
8. The starting point of sentence is 3 years imprisonment.

Mitigation

9. The defendants entered guilty pleas as a sign of remorse. The sentence will be discounted by 25%.
10. No Pre-Sentence Report has been filed as directed. Defence Counsel submits that both defendants are first time offenders. This is not confirmed by the probation officer however I allow a reduction of the end sentence by 3 months.
11. Defence Counsel submits that Jeffery S Narai is 27 years old. Malachai P Moraja is 28 years old and was remanded for breaching bail on 1 August 2022. His end sentence is further reduced by 4 months to reflect time spent on remand.
12. Both performed a custom reconciliation and apologised to the complainant which he accepted with the following items:
 - 4 mats
 - 4 basket local food
 - 1 bundle banana
 - Two (2) 40 yards calico
 - 1000VT
 - Two (2) local chicken
13. The end sentence is further reduced by 4 months.

End sentence

14. Jeffery S Narai is sentenced to an end sentence of 1 year 8 months imprisonment. Malachai P Moraja is sentenced to an end sentence of 1 year 4 months imprisonment. I have considered s 57 of the Penal Code [CAP 135] on the suspension of sentences and will suspend your sentences for a period of 2 years.



15. Both defendants have 14 days to appeal if they are not satisfied with the decision.

DATED at Port Vila this 15th day of December, 2022

BY THE COURT

**D. Aru
Judge**

