

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

**Criminal  
Case No. 23/2643 SC/CRML**

**BETWEEN: Public Prosecutor**

**AND: Therry Pikioune, Marciano Ova, Hugu  
Pikioune, Eddy Pikioune**  
*Accused*

***Date of Sentence:*** *13th day of December, 2023*  
***Before:*** *Justice E.P. Goldsbrough*

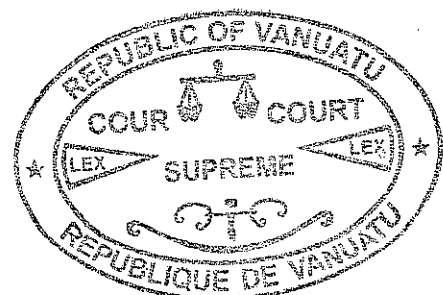
***In Attendance:*** *Meltebury, M for Public Prosecutor*  
*Vohor, J for the Accused*

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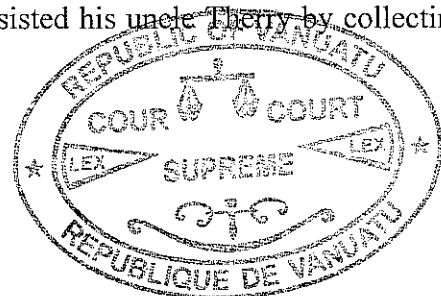
**SENTENCE**

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1. In this case, four people are charged together, involving setting fire to a structure on land in the Big Bay Area, Santo. The charge is that together, they set fire to an iron-roof shelter belonging to Freddy Samsen. People observed them cutting down the roof supports, putting coconut leaves into the collapsed building and setting fire to it. Before being burnt, it had been used as a coconut and kava storage place.
2. This all happened on the morning of 20 February 2023. A reason for this offence is that Freddie Samsen had built the roof shelter on land that did not belong to him, although it is acknowledged that he owned the shelter.
3. Counsel representing the four accused indicated that the guilty plea entered by each of them was following his instructions and that all four of the accused agreed with the content of the amended statement of facts filed by the prosecution. A pre-sentence report was requested and produced on Friday, 8 December 2023, after pleas were entered on 5 December 2023.



4. Therry Pikioune is the eldest offender in this group. He is sixty-three years of age. He lives in the Fresh Wind Area of Luganville. He is a leader in his community and assists with supervising offenders in his area. He has no previous convictions.
5. The offence of arson attracts a maximum penalty of ten years imprisonment. That maximum penalty and the circumstances of this particular offence, which makes it more serious, inform the Court of a starting point for the appropriate sentence. This was not a dwelling house. It was a storehouse and so unoccupied. No people were put in danger, only property. Ownership of the property is not in dispute. Still, ownership of the area where the store was built is in dispute, and there is a suggestion that the store may have been made of coconut trees planted by some of the accused and unlawfully cut down to be used as supports for this roof.
6. Therry Pikioune, although, now acknowledges that he and his sons were not entitled to set fire to the property because of their anger towards Freddie Samsen and his perceived wrongdoing towards them. He acknowledges that there are lawful methods of determining land disputes according to custom and through recognised land management channels.
7. In his favour, he pleaded guilty at his earliest opportunity; he has not been in trouble before, and the likelihood of further offending is low. The pre-sentence report suggests that he may benefit from supervision.
8. Eddy Pikioune is 31 years of age and believes that Freddy Samsen built his shelter with coconut trees that he, Eddy, planted 13 years ago. He was angry about that and hence this offence. He has not been in trouble before. He has a wife, a four-year-old son, and a good business, which he started when he left Bred Bank.
9. He is related to Freddy Samsen. He felt entitled to do something about Freddy Samsen's building on land which does not belong to him, but acknowledges that this action was wrong. Like Therry, he now sees that there are other, lawful, methods of resolving disputes.
10. Eddy Pikioune is married and has three children. There are no problems reported within the family. He has not offended before and remains concerned at the lack of action taken by the police when Freddy Samsen was reported for his activities.
11. Marciano Ova is 37 years of age and lives in Port Olry. He is a husband and father of four children. He is regarded as trustworthy in his community. He has suffered ill health but has now fully recovered. Regarding the offending, he assisted his uncle Therry by collecting

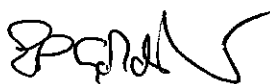


coconut leaves and placing them inside the shelter after its supports had been cut down. He helped because he knew the shelter had been built on land not belonging to Freddy Samsen. He tells the report writer that he did not set fire to the shelter but did assist the others in getting the leaves inside the shelter to make the fire more effective at destroying the shelter. The pre-sentence report recommends supervision.

12. Mr Ova is prepared to undertake a customary reconciliation ceremony properly organised through the chief at Port Olry, as are his relatives who took part in this offence.
13. This offending does not warrant an immediate custodial sentence. It is at the lower end of the scale when looking at the offences of arson involving more serious circumstances than this. It was not a dwelling house; there was little or no risk of injury to others, and the value of the property destroyed or damaged is not said to be high.
14. There are reasons why this offence took place, and those reasons remain unresolved. It is hoped that the four now accept that they cannot resolve these issues with violence or further property damage. A well-managed and properly executed customary reconciliation should take place to resolve all of these issues.
15. This court believes that a suspended sentence of imprisonment would be ill-advised in this case. There will be punishment, but an order requiring unpaid community work. No order for restitution is made, but an order requiring each of the four offenders to perform unpaid community work of 80 hours. That is the sentence of this Court for the offence of arson.
16. Right of appeal explained.

**DATED at Luganville this 13th day of December, 2023.**

**BY THE COURT**



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**E.P. Goldsbrough**

**Judge of the Supreme Court**

