

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

Criminal Case No. 25/876 SC/CRML

BETWEEN: PUBLIC PROSECUTOR
Port Vila

State

AND: Rodney Ngwera
Port Vila

Defendant

Date of plea: 3 June 2025
Date of Sentence: 13 August 2025
Before: Justice B. Kanas Joshua
Counsels: Mr Christopher Shem, for the State
Ms Pauline Malites, for the defendant

SENTENCE

Introduction

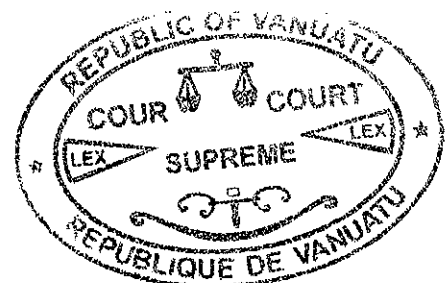
1. Mr Rodney Ngwera, you appear today for sentence for pleading guilty to unlawfully entering dwelling house, theft, and attempted unlawfully entering dwelling house.
2. The maximum sentences for each offence are:
 - a. 20 years of imprisonment for unlawful entering a dwelling house;
 - b. 15 years of imprisonment for theft; and
 - c. 15 years of imprisonment for attempting to unlawfully entering a dwelling house.
3. You admitted and confirmed that you entered Mr Nick Tavner's house after breaking the window screen and three louvres and stole a TV speaker, laptop, camera, money tin, alcohol and some clothes. You knew that the items did not belong to you. These items were valued at around VT300,000. Some of these items were retrieved from your house, while others could not be retrieved.
4. You must be held responsible for your actions so others who also behave this way can see that this is against the law which has serious consequences, and stop their actions. This sentence should help you to rehabilitate, and must be generally consistent.
5. The sentence approach taken is in two steps, as in *Jimmy Philip v. Public Prosecutor*¹, which applied *Moses v. R*².

Step 1 – Starting point

6. The first step is to set a starting point. Reference is made to the aggravating and mitigating factors of the offending and the maximum penalty of the offence.

¹ [2020] VUCA 40.

² [2020] NZCA 296.



7. The aggravating factors are:
 - a. The total value of the stolen items amounted to VT300,000;
 - b. The offending was premeditated and well planned;
 - c. This a repeated offending; and
 - d. The victim sustained financial loss.
8. Prosecution did not submit that there are no mitigating factors to the offending. However, defence submitted that a mitigating factor to the offending is that the stolen items were recovered, except for the money and alcohol. Defence submitted a deduction of 3 months should be given.
9. Prosecution submitted a starting point of 3 - 4 years imprisonment. The case of *PP v. Akuma*³ was a helpful guide, where the court imposed a starting point of 4 years for unlawful entry of dwelling house and 3 years for theft. After deductions were made for the guilty plea and other mitigating factors, the end sentence arrived at was 2 years 8 months on a concurrent basis. Prosecution submitted that the current case is more serious as it involves theft of cash money with other items. In another case *PP v. Molsu*⁴, the court adopted a starting point of 3 years for unlawful entry of dwelling house and 2 years for theft. The end sentence reached after deductions of mitigating factors were made, was 1 year 4 months, suspended for 2 years. Again, prosecution submitted that the current case is more serious.
10. Defence submitted a starting point of 30 months imprisonment. In the case of *Amos v. PP*⁵, the court stated that a starting point of 2 – 2 ½ years is appropriate, with an end sentence of 12 months 2 weeks after appropriate deductions were made. In the case of *Namaka v. PP*⁶, the court imposed a starting point of 30 months imprisonment, with an end sentence of 9 months 2 weeks. The defendant was released as he had been in remand for 7 months 1 week, which equates to a sentence of 14 months 2 weeks.
11. This case is similar to the case of *Amos*, however, Mr Ngwera was not charged with damage to property. I give a starting point of 2 years imprisonment. I deduct 1 month for the mitigating factor to the offending, bringing the sentence to 19 months imprisonment.

Step 2 – Personal factors

12. The second step is to make the appropriate deductions for personal factors.
13. Aggravating factors personal to the offender are that the defendant has a previous conviction, with similar offence. Defence submitted an uplift of 1 month. Prosecution submitted an uplift between 3 – 6 months. A helpful guide of *PP v. Shem*⁷ was referred to, where the court gave an uplift of 3 months to the starting point of the conviction of a similar nature. As in *Shem*, I also give an uplift of 3 months for previous conviction, as the offence is of a similar nature. This gives a total of 22 months imprisonment.
14. Mitigating factors are,
 - a) That the defendant entered a guilty plea at the earliest opportunity.
 - b) That the defendant is remorseful and has accepted the responsibility of his actions.

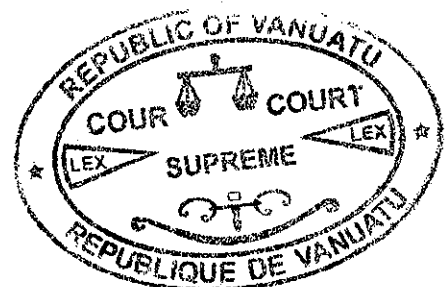
³ [2023] VUSC 145.

⁴ [2023] VUSC 257.

⁵ [2024] VUSC 199.

⁶ [2024] VUSC 137.

⁷ [2024] VUSC 118.



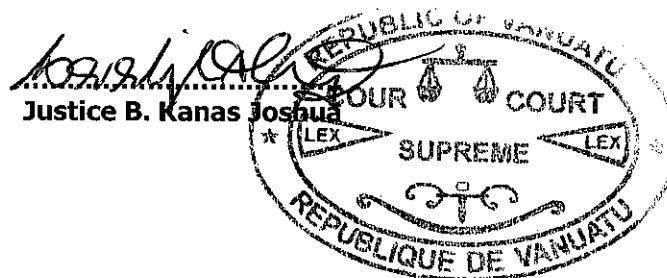
- c) That the age of the defendant at the time of the offending was young. The case of **Amos** was referred to that the young age of the offender warrants a more lenient sentence. Mr Ngwera is 21 years old. In the case of **Amos** the defendant was 22 years old. The case of **Maleb** was also referred to, where the court suspended the sentence. The defendant was 21 years old but he had a clean criminal record, unlike Mr Ngwera.
- d) That the defendant has been in pre-sentence custody since 7 February 2025 to date. This totals to 6 months 6 days in detention. This equates to a sentence of 12 months 12 days.
15. Prosecution agrees that a deduction is made for the guilty plea. Defence submits that a deduction of 33% be given. Mr Ngwera accepts and takes responsibility for his actions by admitting to them and is willing to make things right. I give a deduction of 33% for his guilty plea, bringing the sentence to 14 months imprisonment. I give another deduction of 2 months for the other mitigating factors bringing the sentence to 12 months.

End sentence

16. Mr Rodney Ngwera, you are sentenced to 12 months imprisonment. Your pre-sentence custody equates to an effective sentence of imprisonment of 12 months 12 days.
17. You have served the time required for this sentence that I have delivered.
18. However, there is an application before me to activate a suspended sentence in a previous case⁸. You had been sentenced to 2 years 8 months for 9 charges of similar nature to the current case. This sentence was suspended for 2 years which should lapse on 6 June 2026. In this period, you were warned not to re-offend otherwise your suspended sentence will take effect⁹. You re-offended in January and February 2025.
19. There is nothing in the circumstances that tells me that it will be unjust for the suspended sentence to be activated. The suspended sentence must take effect immediately. You have served 12 days in custody on remand for the present offending, therefore I deduct this from the activated sentence, bringing it to 2 years 7 months 18 days to be served.
20. I further order that you must attend a program, provided by Probation Services, that is appropriate for your rehabilitation.
21. You have 14 days to appeal this sentence, if you are not satisfied with it.

Dated at Port Vila on this 13th day of August, 2025

BY THE COURT



⁸ Criminal Case No. 23/3252 SC/CRML.

⁹ Penal Code Act CAP 135, Section 57(1)(c).