

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

Criminal  
Case No. 24/3822 SC/RML

BETWEEN: PUBLIC PROSECUTOR  
Respondent

AND: LULU SAKIAS and AMOS WARSAL  
Defendants/ Applicants

**Before:** Justice Oliver A. Saksak

**Counsel:** Mr Lenry Young for Public Prosecutor/ Respondent  
Mr James Tari on instructions of Nigel Morrison for Amos Warsal/  
Applicant  
Ronald Warsal for Lulu Sakias/ Applicant

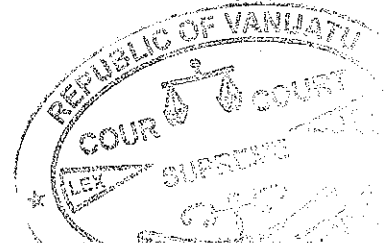
**Date of Hearing:** 16<sup>th</sup> April 2026

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DECISION

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1. The applications by Amos Warsal and Lulu Sakias seeking orders that their sentences of 12 months imprisonment dated 31<sup>st</sup> March 2026 be stayed pending the determination of their appeals, be allowed and the sentences be accordingly stayed.
2. I provide the following reasons.
3. First I acknowledge that the Court has inherent jurisdiction to determine the applications for stay and to either allow them or refuse them.
4. Secondly I acknowledge the cases of Elphrick v General Insurance Ltd & Anor [2002] QCA 347, Van v MainZeal Property and Construction Ltd [2014] NZCA 86 and PP v Seule [2025] VUSC 248 which usefully set out the criteria or principles or factors to be taken into consideration in the determination of applications of this nature which are applicable to criminal cases equally. I do not think that those factors are exhaustive or conclusive.
5. These applicants were charged with criminal offences of misappropriation of trust moneys. They pleaded not guilty in the first instance. At trial they sought leave to be rearraigned and pleaded guilty. Accordingly they were convicted and sentenced based on their guilty pleas. At the end of their sentences the Court advised them of their rights of appeal. See paragraph 30 of the sentence.



6. One of the defendants, George Anderson Toa chose not to exercise his right of appeal . The other two defendants however chose to exercise their appeal rights by appealing against their sentences.
7. Based on the exercise of their rights to appeal, they have made applications to stay their sentences pending the determination of their appeals by the Court of Appeal.
8. The date of hearing of their appeals has been fixed for 8<sup>th</sup> May 2026 . It is just over two weeks to that date. If they lose their appeals, they will have lost 2 weeks of their sentence being delayed, therefore that would be their disadvantage. If on the other hand they succeed on their appeals and get a reduction of sentence or a suspended sentence, the advantage to the State would be reduced costs and expenses and time spent on keeping them in the Correctional Facility.
9. Therefore weighing the balance of convenience of either allowing or refusing the applications, the balance falls squarely and evenly on the applicants and the State. Therefore to decide either way does not matter.
10. But the strongest reason for allowing the application is due to the fact these two applicants were and are currently still on bail. They have never been at any stage of their case been held in custody on remand. If they had been, the circumstance would have been different.
11. For the argument that the applicants may have breached bail conditions, I accept Mr Warsal's submission that that should be the subject of a separate application and at the appropriate time. And we have gone past that stage.
12. Those are the reasons for my decision to allow the applications and for staying the sentence of 31<sup>st</sup> March 2026 as regards defendants Lulu Sakias and Amos Warsal only.
13. I noted that Lulu Sakias was not available at the hearing of the applications. I direct that he be present at the hearing of the appeal on 8<sup>th</sup> May 2026 at the Court in Dumbea.

**DATED AT Port Vila this 16<sup>th</sup> day of April 2026**

**BY THE COURT**

  
**Hon. Justice Oliver A Saksak**

