

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

**Criminal Case No.
1909/23MC/CRML**

PUBLIC PROSECUTOR

V

LENNOX YANG TERRY

*In Attendance: Mr. Solomon Asang for the State
Ms. Barbara Taleo for the defendant*

SENTENCE

A. Introduction

1. Mr. Lennox Yang Terry pleaded guilty on the charge of theft.
2. He is therefore convicted as charged.

B. Facts

3. The complainant is Mr. Jack Sprouster, a captain of a foreign vessel anchored in front of Ratua Island Resort.
4. He filed a complaint in the Police Station in Luganville stating that on 11 July 2023 the defendant accompanied a traditional bamboo music group from Luganville to Ratua Island to present traditional music show to guests.
5. While at the Resort, the complainant invited the music group to go and perform in his ship.
6. After the performance, the complainant allowed the music group to visit the interior of the ship.

7. While doing so, the defendant saw cash money in the Australian dollar currency in amount of \$1700 in the ship. The defendant ensured no one was watching then he took the money away with him.
8. On 12 July 2023, the defendant went to the National Bank in Luganville town to exchange the dollar into Vatu but the bank officer refused him because he did not present an Identification card.
9. The defendant came out of the bank and found a friend who was willing to use his Identification card to exchange the dollar into vatu.
10. VT 30,000 cash was obtained from the exchange and the defendant and his friend went into the shop, bought carton of alcoholic beverages and cigarettes, and began to drink.
11. The drinking continued and they would replenish the funds by making several visits to the bank to obtain more cash through more dollar exchange.
12. The drinking continued to 13 July and on 14 July, a chief namely Nelson Willie who is the custom owner of Ratua Resort became suspicious that the defendant must have stolen money from Ratua Island.
13. Chief Nelson then contacted the Manager of Ratua Island Resort to find out if they have noticed cash missing in the resort.
14. The complainant then reported that cash in the amount of \$1,700 (VT 132,640) had been stolen from his ship.
15. The Complainant then travelled to Luganville and met with Chief Nelson Willie.
16. At the time, the defendant was asleep and Chief Nelson took \$300 from his pocket.
17. The complainant and chief Nelson took the defendant to the Police Station and he admitted his offending to the Police Officers.

C. Sentence starting point

18. The maximum penalty of theft is 12 years imprisonment.
19. There are no mitigating aspects of the offending. The aggravating factors are:
 - There was an intention to deprive the complainant use of his hard-earned money.
 - Breach of business trust between Ratua Island Resort and Traditional Bamboo band.
 - Cause of loss to the complainant.

20. In considering the aggravating factor, I set a starting point of 18 months imprisonment.

D. Deductions for Guilty Plea

21. The defendant pleaded guilty at first opportunity. He is therefore entitled to one-third reduction of his starting sentence, which is 6 months.

E. Personal Factor

22. The defendant is 18 years of age.

23. He is a youth member and has a good working relationship with his Community at Banban Area.

24. He is a first time offender.

25. He expressed remorse for his actions.

26. He pleaded guilty at first given opportunity.

27. He is currently employed at Wilco Hardware.

28. He cooperated with the Police during investigation.

29. He has returned \$300 of the amount stolen, which is equivalent to VT 23,407.

30. For his personal factor, I make a further discount of 5 months.

F. End Sentence

31. The sentencing principles achievable in this case amongst others expressed in *Public Prosecutor v Vahirua* [2018] VUSC 15 are to hold you accountable for your conduct, to denounce your criminal conduct, to protect the community, to promote sense of responsibility for the harm done and to assist in your rehabilitation and re-integration.

32. Taking into account all matters in relation to all matters aggravating and mitigation personal to your offending, the end sentence imposed on your offending is 7 months imprisonment.

33. I accept to suspend his sentence for 2 years taking into the account the defendant's age and employment.

34. He therefore must not commit any criminal offence within 2 years failing which this suspended sentence will be lifted and he will serve 7 months imprisonment together with any other sentences imposed on him for his re-offending.

35. For completeness, I also order 80 hours of community work sentence.

36. He is to see a Probation Officer in the Correctional Department no later than 72 hours to discuss his community sentence work plan.

37. The defendant is to pay VT 2,000 prosecution cost in 7 days.

G. Appeal

38. He has 14 days to appeal to the Supreme Court if he is not satisfied with this sentence.

DATED at Luganville, this 21st day of March 2024

BY THE COURT



.....
MOSES PETER
Senior Magistrate

