

**PUBLIC PROSECUTOR**

**V**

**PAUL TUNAT  
JOSHUA MARK**

**Hearing:** 4 October 2012  
**Before:** Justice Robert Spear  
**Appearances:** Tristan Karae for the Public Prosecutor  
Andrew Bal for the Defence

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**MINUTE  
Setting Trial Date (Paul Tunat)  
Sentence (Joshua Mark)**

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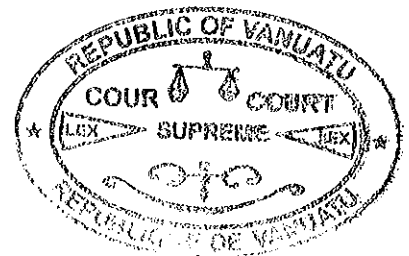
1. The trial of Paul Tunat is now fixed to commence at 9.00 am on 13 November 2012. The defendant Paul Tunat is remanded in custody to that date.

***Sentencing of Joshua Mark***

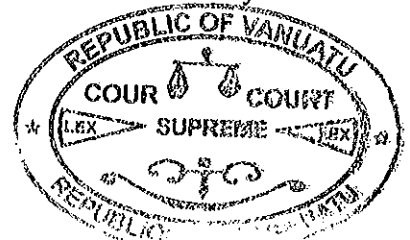
2.

Joshua Mark you are for sentence having pleaded guilty to 1 charge of unlawful entry and an allied charge of theft. A summary of facts has been presented by the prosecution. No issue is taken with it. It explains that on 27 February 2008, another man and you entered the VMF engineering room at Port Vila and stole a number of items. They include 3 laptops, portable radios and clothing all to a total value of Vt 395,300.

3. You were eventually apprehended in 2009 and you made a full confession.



4. I am unable to understand why this prosecution was not commenced in 2009 and why this matter has not been concluded well before now. The Court record indicates that you were committed for trial or sentence in March 2012. You entered a plea of guilty at an early time in line with your 2009 confession.
5. There has been some slight delay this year in resolving this matter and that is principally because you failed to attend Court on 3 April 2012 and you remained a fugitive from justice until your arrest on 11 September 2012. You have been in custody since your arrest.
6. I have received helpful submissions from both prosecution and defence counsel. They urge on me a short sentencing imprisonment but then to suspend it. I am prepared to accede to those submissions for a number of reasons.
7. First, however, it is necessary to determine what the appropriate sentence of imprisonment should be. Without question, this is serious offending particularly as it involved the unlawful entry onto Government premises and the quite audacious theft of items from the Vanuatu Mobile Force. It is difficult to understand what lawful use you could have made of those items of clothing. Be that as it may, I accept that you were under the direct influence of your co-defendant who is still to face trial in this matter. He is currently a serving prisoner. Furthermore, he has an extensive criminal history having regard to the certificate of previous convictions produced at the preliminary hearing. I can accept that you, as a person some 3 years younger and with no previous convictions, are likely to have been influenced by your co-defendant in respect of this criminal activity.
8. Theft of premises (which here can be treated as akin to commercial premises) where substantial items of property are taken should usually attract a starting point of 3 years' imprisonment; and that is the starting point I adopt here. There are no aggravating features in your case that would increase that offending end point.
9. As I have mentioned, you are now 26 years of age and you were 22 years of age at the time of this offending. Your co-defendant was 3 years older than you. I allow you a full 1 years' credit for your previous good character, your genuine remorse and your



indication that you are prepared to undergo a reconciliation ceremony if that is organised.

10. I recognise further your early guilty plea by reducing the sentence by a further 1/3rd which results in a sentencing end point of 16 months' imprisonment.
11. In your case, I am prepared to make an exception and to suspend sentence because of the time that has passed since this prosecution was commenced (which has not been explained in a satisfactory way), because you were previously of unblemished character and further that it appears that you were subject to the distinct criminal influence of your co-defendant.
12. I propose to couple the suspended term of imprisonment with community work and for that reason I reduce the term of the imprisonment to 12 months'.
13. You are sentenced to 12 months' imprisonment which is to be treated as having commenced on 11 September 2012.
14. That term of imprisonment is suspended for a period of 2 years. This means that if you offend again and you are convicted, you will go to prison for that 1 year term plus such further time as the Court may impose for the further offending.
15. You will also carry out 150 hours community work. You are to report to the Court office at 3 pm today to be served with a community work order.
16. You have 14 days to appeal this sentence if you do not accept it.
17. Mr Karae and Mr Bal have indicated that they would explain the suspended sentence requirements and the community work requirements in Bislama to the defendant Joshua Mark after this.

**BY THE COURT**

