

**IN THE SUPREME COURT
OF THE REPUBLIC OF VANUATU
(CRIMINAL JURISDICTION)**

CRIMINAL CASE NO. 200 OF 2014

PUBLIC PROSECUTOR

V

JACKSON MELTAKANI

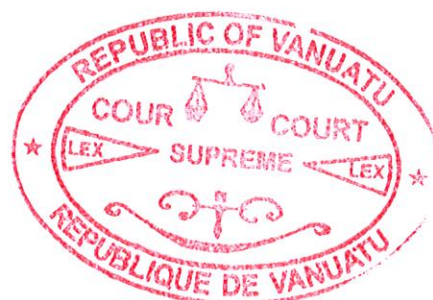
Coram: Justice Mary Sey

Counsel: Damien Boe for the Public Prosecutor
Brian Livo and Stephen Carlo (PSO) for the Defendant

Date of Decision: 20 February 2015

SENTENCE

1. **Jackson Meltakani**, when the charge of theft was put to you on 19th November 2014 you pleaded not guilty. However, when the case was called on 17th February 2015, defence counsel indicated to the Court that you wished to vacate your earlier plea of not guilty and you sought leave to be re-arraigned on the same charge of theft contrary to section 125(a) of the Penal Code [Cap 135].
2. The Court granted leave and the charge was re-read to you whereby you pleaded guilty and you were convicted accordingly.



3. You are for sentence today and you take no issue with the prosecution's brief summary of facts. The offending occurred at Norsup Hospital on 19th January 2013 in the early hours of the morning when you stole a DVD deck which is said to be the property of the complainant Mrs Emon John of Tautu Village Central Malekula.

4. Section 125 prohibits theft and it states that:

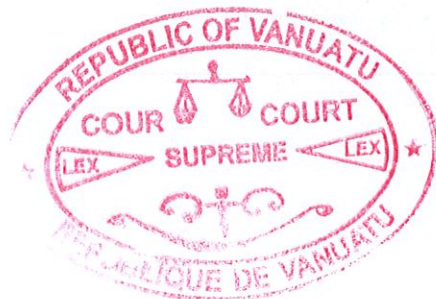
"No person shall cause loss to another - (a) by theft..."

That section sets a penalty of imprisonment for 12 years.

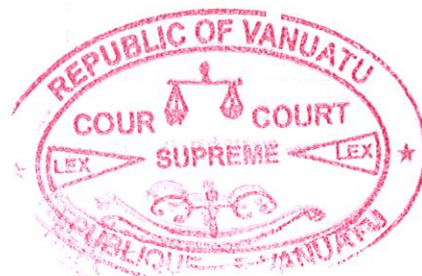
5. The prosecutor has referred me to case authorities such as Public Prosecutor v Naio [2010] VUSC 113 and Public Prosecutor v Gibson William [2013] VUSC 68; Criminal Case 13 of 2013 (29 April 2013). Counsel has also cited the case of Public Prosecutor v Raprap [2011] VUSC 89 where His Lordship Spear J. said:

"This sentence must hold you fully accountable for what you have done; it must denounce your conduct and promote in you a sense of responsibility for your activities. You have caused substantial loss to others not just because of the items that you have taken but also because they will no longer feel safe in their homes. It is an easy activity to perform, breaking into someone else's home, and it is often difficult to apprehend those people who have done so. When they are caught they need to be punished so that people will appreciate that it is not worth the risk."

6. **Jackson Meltakani**, I have read the submissions on your behalf from your defence counsel as well as the submissions made by the public prosecutor.



7. The circumstance and gravity of your offending is aggravated by factors which show that you committed the offence in the early hours of the morning and that there was some degree of planning and pre-meditation.
8. In mitigation, defence counsel submitted that you are from Tautu village, Malekula and that you were 24 years of age at the time of the offending. Furthermore, that you are a first time offender with no previous convictions and that you are remorseful and sorry for your action and you cooperated well with the Police. You are the sole bread winner of your family and you are in a defacto relationship and have two children aged 3 years and 4 years. Your defacto partner is not employed and you engage in gardening and other small farming to sustain your family. I understand that you are planning to plant cocoa and coconut in the future and to sell the produce so as to earn enough money to continue to sustain your family and to pay for your children's school fees to enable them have a good education.
9. I also note from the defence submissions that you have performed a custom ceremony to the Executive Officer and staff of Norsup Hospital and that you gave them one long yam, a mat and a rooster (fowl). During the custom ceremony you were remorseful and asked for forgiveness. Also, the stolen property (DVD deck) has been recovered and returned to the owner.
10. The penalty of 12 years imprisonment for theft, in my view, reflects the intention of Parliament that the offence is a very serious offence and it must be dealt with as such.



11. **Jackson Meltakani**, a custodial sentence must be the appropriate sentence to be imposed on you to reflect the seriousness and circumstance of your offending. You are therefore sentenced to 12 months imprisonment and in addition you shall perform 80 hours Community Work. This sentence must hold you fully accountable for what you have done and it must denounce your conduct and promote in you a sense of responsibility for your activity.
12. Although you have pleaded guilty, I take note of the fact that your guilty verdict was not recorded at the earliest opportunity. It could have been entered at the first reasonable opportunity when you were called for plea on 19th November 2014. I will therefore not give you one third credit for your guilty plea.
13. The question that remains is whether or not I should suspend the sentence. I have considered the provisions of section 57 Penal Code and I am of the view that a suspended term of imprisonment would still serve the overriding principles of deterrence and denunciation which are paramount in sentencing. Given the circumstances of the offending in this present case, I will suspend the 12 months imprisonment for a term of 2 years from today's date.
14. **Jackson Meltakani**, you should note that even though you are not going to prison today, you now have a criminal record. This is your chance to say I have made a mistake, I will not do it again and get on with your life and never come back here again. If you never come back to Court it is good for you, it is good for your family and it is also good for the community. However, if you re-offend and you are convicted before the 12 months' suspension period expires, your



sentence of 12 months imprisonment shall be re-activated and you may be required to serve this sentence of imprisonment in addition to any sentence that may be imposed on you for your re-offending.

15. You have 14 days within which to file a notice of appeal against this sentence if you do not like it.

Dated at Lakatoro, Malekula this 20th day of February, 2015.

BY THE COURT


M.M. SEY
Judge

