

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

Criminal
Case No. 20/314 SC/CRML

PUBLIC PROSECUTOR

v

SONGI MICHEL

Date: 15 April 2020
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr K. Massing
Defendant – Mrs K. Karu

SENTENCE

A. Introduction

1. Mr Michel pleaded guilty to one charge of arson. The maximum sentence for this offence is 10 years imprisonment.
2. I convict Mr Michel on his plea and the summary of facts.

B. Facts

3. On 5 September 2019, a police officer's house at Morua station on Tongoa island burnt to the ground. Mr Michel and an associate went to the police officer's yard just before the fire and asked the police officer's son for paper to roll a cigarette. The three of them then walked out of the yard towards the gardens.
4. Mr Michel returned some minutes later and spoke with the police officer's daughter. She then left to go to a shop. The shop was not open so she returned home. On her return, the house was already on fire. She saw Mr Michel running down the road away from the house towards Ravenga village.
5. The house was made of cement blocks with iron roofing. The house and its entire contents were destroyed by the fire. Its estimated value is over one million vatu.



6. The police investigation found that Mr Michel had earlier that day bought 5 litres of benzene (fuel) which he used to burn down the house. Further, that he had also obtained matches prior to the fire.

7. Mr Michel made full admissions to the police.

C. Aggravating/Mitigating Factors of the Offending

8. There are aggravating factors to the offending:

- (i) It was premeditated. Mr Michel bought 5 litres of benzene earlier that day and also asked a family member for matches. He deliberately lured the officer's son and daughter away so that there was no one left at the house.
- (ii) The police officer and his family lost their house and all its contents to the fire. The estimated value of the house is over one million vatu.
- (iii) The complainant and his family had to go for days without extra clothing until help started to reach them from surrounding villages and from family in Port Vila. They are starting to recover from the trauma they experienced.
- (iv) The complainant's son was psychologically affected and as a result came out with low grades in last year's exams.
- (v) Finally, Mr Michel was under the influence of cannabis at the time of the offending.

9. It is mitigating that Mr Michel ensured that there was no one inside the house at the time.

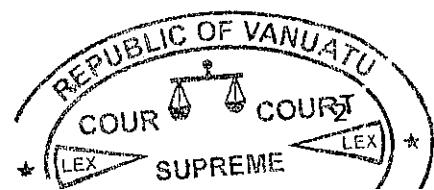
10. Taking the above factors into account, I set the sentence start point for Mr Michel's offending at 3 years 6 months imprisonment.

D. Personal Factors

11. Mr Michel is 24 years old and single. His education finished at year 10. He is currently working in his father's construction company. He has no previous convictions.

12. A custom reconciliation ceremony has been made to the complainant and his family involving a pig valued at VT30,000, kava stem valued at VT10,000, 5 mats valued at VT7,500, local food crops valued at VT5,000 and VT2,000 cash. Further, Mr Michel's family have agreed to pay compensation to the complainant of VT1,000,000, as set out in the signed 'Memorandum of Agreement between Victims Family and Defendants Family'. The first VT250,000 was paid during the custom reconciliation ceremony.

13. Another pig valued at VT10,000 was given to the Paramount Chief Tinapuamata with local food valued at VT5,000, 2 mats valued at VT3,000 and VT1,000 cash to show Mr Michel's apologies to the high chief of the village.



14. Another pig valued at VT8,000 and food valued at VT5,000 was given to the chief of Mr Michel's nasara, Lolaki Nasara.
15. In that same ceremony, Mr Michel's father on Mr Michel's behalf apologised to Paramount Chief Maraki Bule with 2 mats valued at VT3,000.
16. Another apology with 1 mat valued at VT1,500 was made to the district administration officer, Mr Makau.
17. Another apology with 1 mat valued at VT1,500 was made to the police officer stationed at Morua, Mr Tariobed.
18. Finally, Mr Michel's father on Mr Michel's behalf acknowledged the paramount chief Tinapoamata and Chief Maraki and others for accepting the reconciliation ceremony and collaborating to witness the signing of the Memorandum of Agreement.
19. For the personal factors, I reduce the start point of Mr Michel's sentence by 4 months imprisonment.
20. For the compensation made and agreed, I further reduce the sentence start point by 10 months imprisonment.

E. Deduction for Guilty Plea

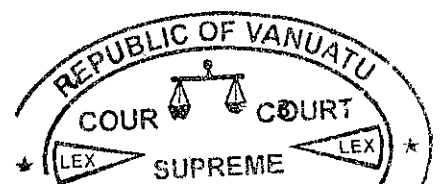
21. The entry of Mr Michel's guilty plea at the first opportunity and the strength of the Prosecution case warrant a 25% deduction.

F. End Sentence

22. Taking all of those matters into account, the end sentence that must be imposed on Mr Michel is one of 1 year 9 months imprisonment. The sentence is to commence from 9 February 2020 as I take into account that Mr Michel was remanded in custody from 7 September 2019 to 12 November 2019.

G. Suspension

23. I have the ability, in certain circumstances, to suspend an imprisonment sentence in part or entirely. In view of the following factors:
 - a. The agreement by Mr Michel's family for the payment of compensation to the complainant;
 - b. Mr Michel's relative youth and lack of previous convictions therefore having prospects for rehabilitation; and
 - c. Mr Michel offended whilst under the influence of cannabis rather than him having any long-term grudge against the complainant. In my view his setting fire to other people's property is unlikely to reoccur,



therefore I consider that it is not appropriate to make Mr Michel suffer immediate imprisonment. I order the suspension of the execution of the imprisonment sentence on the condition that Mr Michel commits no further offence within the next 2 years.

24. I consider that keeping Mr Michel in the community is practicable and consistent with the safety of the community.
25. Although Mr Michel will not have to go into Correctional Services' custody today, I warn him that if he commits an offence in the next 2 years and is convicted, that he will be required to serve this sentence of 1 year 9 months imprisonment in addition to any other penalty that may be imposed on him for the further offending.

H. Other

26. In addition, I impose a supervision order subject to the standard conditions. One of these conditions is that Mr Michel must take part in a rehabilitative and reintegrative needs assessment and/or programme if and when directed to do so by a probation officer. I hope Mr Michel will make full use of this opportunity to address his use of cannabis so that he can fulfil his potential for not only himself and his family but as a citizen of Vanuatu.
27. Finally, taking into account the agreement already made between Mr Michel and his family and the complainant, and that the first payment VT250,000 has already been made, I impose a sentence of compensation that Mr Michel pay the complainant the remaining VT750,000 due under their agreement by the dates set out therein. Accordingly, the remaining VT750,000 is to be paid by instalments of VT250,000 each by 30 September 2020, 31 March 2021 and 30 September 2021.
28. In the event of default in relation to the sentence of compensation, Mr Michel is to be remanded in custody for that failure and serve the sentence of imprisonment.
29. Prosecution is to provide a copy of this sentence to the complainant.
30. Mr Michel has 14 days to appeal this sentence if he disagrees with it.

**DATED at Port Vila this 15th day of April 2020
BY THE COURT**

V.M. Trief
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V.M. Trief
Judge

