

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

Criminal
3380
Case No. 20/368 SC/CRML

BETWEEN: Public Prosecutor

AND: Tom Nakou
Defendant

Date: 7 May 2021
By: Justice G.A. Andrée Wiltens
Counsel: Mr C. Shem for Public Prosecutor
Mr H. Vira for the Defendant

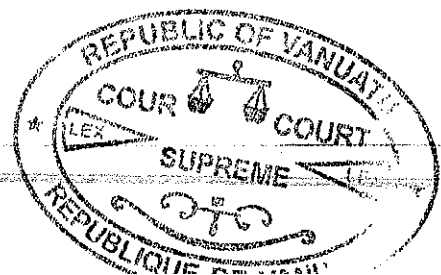
Sentence

A. Introduction

1. Mr Nakou pleaded guilty on the day of trial to 4 charges of obtaining money by false pretence.

B. Facts

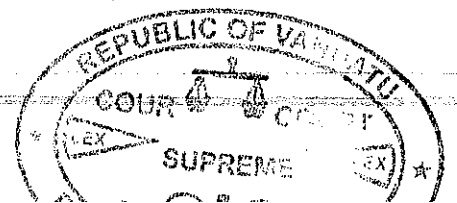
2. On 17 December 2018, Mr Nakou obtained VT 4,000 from Willie Tom on the false basis that in return Mr Nakou would prepare some medicine for Mr Tom which would improve Mr Tom's truck business.
3. On 19 December 2018, Mr Nakou obtained VT 2,000 from Leah Ben on the false basis that in return Mr Nakou would order 7 certain items from Port Vila to be delivered to her.
4. Also on 19 December 2018, Mr Nakou obtained VT 6,000 from Henry Dominik on the false basis that in return Mr Nakou would prepare some medicine for him which would improve Mr Dominik's truck business.



5. On 20 December 2018, Mr Nakou obtained VT 3,000 from Rita Walter on the false basis that in return Mr Nakou would give her a solar panel.
6. All four representations were in fact untrue, and all 4 victims have lost their money.
7. When interviewed by the police Mr Nakou remained silent.

C. Sentence Start Point

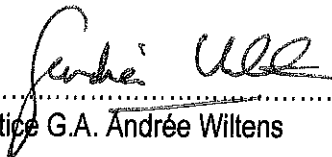
8. The sentence start point is to be assessed by having regard to the maximum sentence available for this offending, and factoring in both the aggravating and mitigating aspects of the offending.
 9. The maximum sentence for this type of offence is 12 years imprisonment.
 10. There are aggravating factors to this offending, which include:
 - The repeated nature of the offending;
 - The preying on less educated members of the community;
 - There is no realistic prospect of reparation in the short term; and
 - The pre-meditation and planning involved.
 11. There are no mitigating aspects of the offending.
 12. I adopt a sentence start point of 10 months imprisonment, taking all the 4 charges into account concurrently on a global basis. I do so primarily because of the small amounts involved in the offending.
- D. Personal Factors
13. Mr Nakou pleaded guilty to all the charges on the morning of trial. Although this was not at the earliest available stage of the proceedings, his plea indicates that he has accepted his wrongdoing. It has also saved Court time and expense. For Mr Nakou's pleas I reduce the sentence start point by 20%.
 14. Mr Nakou is now 35 years old. He is married with 3 young children to care for. He is a farmer, and is in good standing with his community.
 15. He has previous convictions and is currently serving a term of 4 years 5 months imprisonment for sexual intercourse without consent. That sentence also incorporated his theft conviction.
 16. Mr Nakou has not conducted a custom reconciliation ceremony, although he states he is willing to do should he paroled.
 17. For Mr Nakou's personal factors, I make no reduction from the sentence start point.



E. End Sentence

18. Mr Nakou is sentenced to 8 months imprisonment in respect of all 4 charges.
19. The sentences are to run concurrently, but consecutively to his existing sentence.
20. The end sentences will not be suspended. This offending exhibits further dishonesty on the part of Mr Nakou, and accordingly suspending any or all of the sentence would be simply inappropriate.
21. Mr Nakou has 14 days to appeal the sentence.

Dated at Port Vila this 7th day of May 2021
BY THE COURT


Justice G.A. Andrée Wiltens

