

**IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU**

*(Criminal Jurisdiction)*

**Criminal**

**Case No. 23/1460 SC/CRML**

**PUBLIC PROSECUTOR**

**v**

**JOSHUA SCOTT  
MIKE MAKERE**

*Date:* 4 September 2023  
*Before:* Justice V.M. Trief  
*Counsel:* Public Prosecutor – Mr G. Simeon  
Defendant – Mr J. Garae

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**SENTENCE**

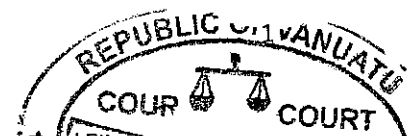
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A. Introduction

1. The Defendants Joshua Scott and Mike Makere pleaded guilty to jointly committing unlawful entry (Charge 3) and theft (Charges 4, 8 and 10). Mr Scott pleaded guilty to an additional four charges of unlawful entry (Charges 1, 5, 7 and 9) and two charges of theft (Charges 2 and 6).

B. Facts

2. On 24 November 2022, Mr Scott broke into Kerry Tambe's store at Banban area with intent to commit an offence. He used a pinch bar to open the door to the store (Charge 1). Mr Scott stole a cash box containing VT50,000-VT60,000 cash and some other items (Charge 2).
3. On 19 December 2022 at Red Corner area at Luganville, Mr Scott and Mr Makere broke into the All for You Car Dealer Garage with intent to commit an offence. They cut a lock to the main door and entered the garage (Charge 3). They stole new car parts, a spanner and toolbox (Charge 4). Some independent witnesses confirmed that the defendants approached them to sell the items they stole from the garage.
4. On 8 January 2023 at Million Dollar Point area, Mr Scott unlawfully entered Mr Claton Manwo's house. He broke the lock on the main door to gain entry (Charge 5) and stole



VT7,500 cash, a JBL music speaker and Nike sandals (Charge 6). Independent witnesses saw Mr Scott wearing the Nike sandals the next day and confirmed that Mr Scott was trying to sell a JBL speaker.

5. On 15 January 2023 at Palm Estate area at Luganville, Mr Scott and Mr Makere unlawfully entered Mr Kalisto Tariamala's houses by breaking the door pins to the main house and another house (Charge 7). They stole a large TV screen, a DVD player, a red handbag, VT5,000 cash, a box full of coins and a first aid kit (Charge 8).
6. On 16 January 2023, at Palm Estate area, Mr Scott unlawfully entered Jesse Chen's house (Charge 9). He was joined by Mr Makere and they stole a power magnifier, 2 speakers, 1 mixer, 1 adapter, 2 cell phones, 1 data cable, 1 backpack, 1 carton of Victoria Bitter beer, 3 security cameras, 1 Chinese Changhua cigarette, 1 TP Link Wi-Fi router, 2 Wi-Fi routers and VT12,400 cash (Charge 10). Independent witnesses confirmed seeing the defendants using the stolen items.

C. Sentence Start Point

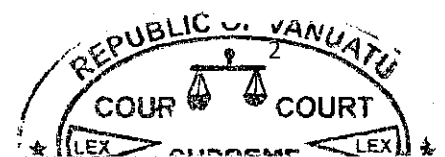
7. The sentence start point is assessed having regard to the maximum sentences available, and the mitigating and aggravating factors of the offending.
8. The maximum sentences prescribed in the *Penal Code* [CAP. 135] are:
  - a. Unlawful entry of residential dwelling – 20 years imprisonment (subs. 143(1)); and
  - b. Theft – 12 years imprisonment (s. 125(a)).
9. The offending is aggravated by the following:
  - The offending occurred at night time;
  - Some degree of planning and premeditation;
  - Joint criminal enterprise;
  - The repeat nature of the offending over a short time span;
  - Five separate victims; and
  - The significant loss suffered by each victim with no prospect of reparation or return of the bulk of the stolen property.

10. It is mitigating that some of the stolen items were recovered.

11. The factors set out above require a global sentence start point of 7 years imprisonment for Mr Scott and 3 years imprisonment for Mr Makere.

D. Mitigation

12. The Defendants pleaded guilty at the first opportunity. Accordingly, one-third is deducted from the sentence start points.



13. Mr Scott is 17 years old. He is a year 8 leaver. His parents have separated leaving him and his siblings living on their own. He has prior convictions entered by the Magistrates' Court in 2020 in respect of 3 charges of unlawful entry and 3 charges of theft. A 6-month uplift is therefore added to Mr Scott's sentence start point.
14. There needs to be a discrete discount for Mr Scott's youth and immaturity. Accordingly, I reduce the sentence start point by 9 months.
15. Mr Makere is 32 years old. He has a *de facto* partner and 5 children. He drives their taxi for a living. He has no previous convictions. He has not performed custom reconciliation ceremony with the complainants as he was ordered to stay away from them. Three months is deducted for Mr Makere's personal factors.

E. End Sentence

16. The applicable sentencing principles are to denounce and express public disapproval of such offending, to deter the defendants and others from such offending, to protect the community and to hold the defendants accountable for their offending.

17. Taking all matters into account, the end sentences imposed concurrently are as follows:

a. Joshua Scott:

- i. Unlawful entry (Charges 1, 3, 5, 7 and 9)      4 years 5 months imprisonment;  
and
- ii. Theft (Charges 2, 4, 6, 8 and 10)              3 years 6 months imprisonment.

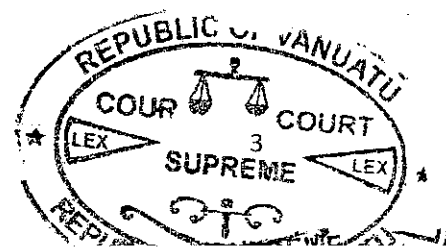
b. Mike Makere:

- i. Unlawful entry (Charge 3)                      1 year 9 months imprisonment; and
- ii. Theft (Charges 4, 8 and 10)                  1 year 6 months imprisonment.

18. Mr Scott's sentences are backdated to run from 8 July 2023 to take into account the 59 days spent in custody prior to sentencing (27 January 2023-14 March 2023 and since 24 August 2023 to date).

F. Suspension of Sentence

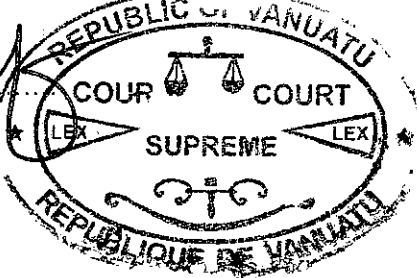
19. There are no exceptional circumstances warranting suspension of Mr Scott's sentences.
20. As for Mr Makere, his prompt guilty pleas, lack of previous convictions and prospects of rehabilitation count in favour of suspension of sentence. I consider his chances of rehabilitation are better served by keeping him out of custody therefore suspend his sentences for 2 years. I trust that he will make the most of the opportunity given him and ensure that he does not ever offend again.



21. Mr Makere is warned that if he offends again within the next 2 years, that he will need to serve the sentences imposed today in addition to any other penalty that may be imposed on them for the further offending.
22. In addition, Mr Makere is ordered to complete 100 hours of community work and 12 months supervision.
23. The Defendants have 14 days to appeal.

**DATED at Port Vila this 4<sup>th</sup> day of September 2023  
BY THE COURT**

*VM Trief*  
Justice Viran Molisa Trief

The seal of the Supreme Court of Vanuatu is circular. It features a central scale of justice. The words "REPUBLIC OF VANUATU" are written in an arc at the top, and "REPUBLIQUE DE VANUATU" at the bottom. The word "SUPREME" is prominently displayed in the center, with "COURT" on either side. Two small triangles containing the word "LEX" are positioned on the left and right sides of the seal.