

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

**Criminal  
Case No. 23/2249 SC/CRML**

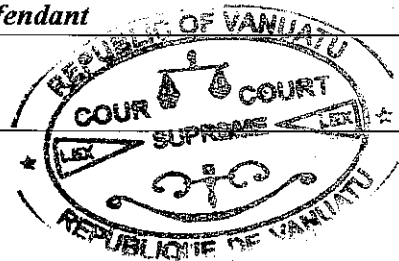
**PUBLIC PROSECUTOR**

**V**

**ABANG JOHN and FATI JIMMY**

*Date of Sentence:* 6<sup>th</sup> day of October, 2023 at 1:30 PM and 24<sup>th</sup> October 2023  
*Before:* Justice E. P. Goldsbrough  
*In Attendance:* Mr. J, Aru for Public Prosecutor  
Ms. C. Dehinavanua for Defendant

**SENTENCE**

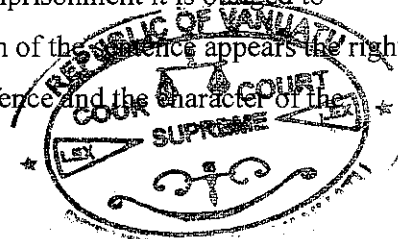


**Sentence**

1. This part of the decision concerns Abong John. He was charged and convicted at the same time as Fati Jimmy. Fati Jimmy, however, at the time of this offending, was on licence from prison and is therefore subject to recall. Until his status has been confirmed, he will not be sentenced. Abong John has waited long enough to hear what sentence will be imposed on him and so a decision has been taken in these exceptional circumstances, to sentence the offenders separately.
2. Abong John pleaded guilty to a total of four offences, two each of unlawful entry of a dwelling house and two offences of theft. In effect, two incidents. The property stolen by Abong John was two pairs of shoes, both of which were recovered.
3. During a bout of drinking, the accused in the company of others decided there was a need for further alcohol. To this end, the unlawful entry and theft offence took place. The shoes, it was said, could be sold to fund further alcohol purchases. There is little more that can be said about the offences.
4. The maximum penalties for these offences together with any factors which make these particular offences more or less serious are to be taken into

account when determining sentence. The maximum penalties are twenty years imprisonment for unlawful entry and twelve years imprisonment for theft. The factors which aggravate these offences, agreed by counsel are that these offences took place whilst people were sleeping in their homes, the offending involved a degree of planning and between the two of them, multiple items were taken. It has to be said that the co-accused took most of the items, more than Abong John.

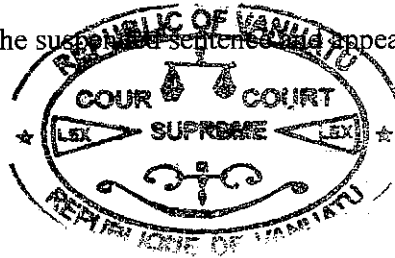
5. According to precedent, this offending compared with other cases of unlawful entry and theft from a dwelling house falls at the lower end of the scale of offending. A similar case was taken before the Court of Appeal recently where the length of the sentence of imprisonment for unlawful entry and theft of shoes was confirmed. In that case, a starting point of 22 months was adopted in relation to the accused charged with fewer offences and who stole less.
6. In this case, a starting point of twelve months imprisonment is adopted. Turning to consider what adjustment is required from the starting point, a guilty plea was entered at the earliest opportunity and for that, a reduction in sentence is required. The offender has spent 23 days in pre-sentence custody. That must be taken into account when fixing the final sentence. The offender has no previous convictions. That is also taken into account.
7. A discount of 33% is fixed for the early guilty plea. There are no other reductions awarded for other personal factors. There has been no reconciliation in custom. That brings the starting point down to 8 months. With the reduction due for time spent in custody pre-sentence an end sentence of 6 months appears to be the most appropriate.
8. As recited earlier, this defendant has not been in trouble before. To that end, when the Court considers the sentence of imprisonment it is obliged to consider suspension and, indeed, suspension of the sentence appears the right thing to do considering the nature of the offence and the character of the offender.



9. It is further submitted that the offender may benefit from an order requiring him to perform unpaid community work in addition to a suspended sentence. The Court agrees.

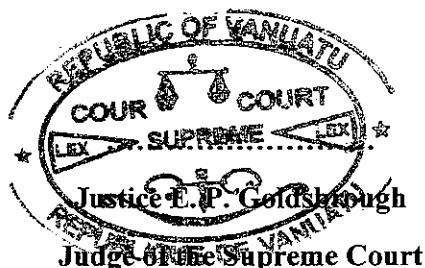
10. The sentence of the Court is a sentence of six months imprisonment for each offence to run concurrently and suspended for one year and in addition an order that the accused performs community work for 50 hours within the next twelve months.

11. Both the effect of the suspended sentence and appeal rights are explained.



**DATED at Port Vila this 6<sup>th</sup> day of October, 2023.**

**BY THE COURT**

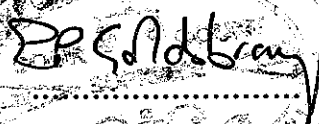


1. I turn now to Fati Jimmy. He committed two offences, unlawful entry of a dwelling house and theft, fewer offences than his co accused Abong John but stole more property than him. The remarks above apply equally to Fati Jimmy as these two committed these offence together at the same time and in similar fashion.
2. Thus the maximum penalties and aggravating features are the same and, in my view, the starting point should also be the same.
3. That starting point is 12 months. From that can be deducted a period marking the guilty pleas entered. A deduction of 33% will reduce the 12 months down to 8 months. There are no personal mitigating factors and this offender has multiple previous convictions. He may well, when Correctional Services report accurately to the Parole Board on him, be sent back to prison to serve the balance of other custodial sentences already imposed on him.
4. Like his co-accused, this offender has spent time in custody pre-sentence and has now been in custody awaiting sentence after conviction since 29 September. For the 23 days in pre-trial custody your sentence is further reduced from 8 months to 6 months.

5. Fati Jimmy you are sentenced to a period of imprisonment for each of these two offences for six months. Suspension of that sentence is ruled out because of your previous record and because it is likely that the Parole Board will shortly revoke your licence and send you back into custody to serve the remainder of your sentences. The sentence of imprisonment is deemed to have begun on 29 September 2023, being the date you were remanded in custody awaiting sentence.

**DATED at Port Vila this 24<sup>th</sup> day of October, 2023.**

**BY THE COURT**



**Justice E. P. Goldsbrough**  
**Judge of the Supreme Court**