

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

**Criminal**  
**Case No. 22/1945 SC/CRML**

**BETWEEN:** Public Prosecutor

**AND:** Tommy Moruk  
Defendant

*Coram: Justice Aru*  
*Counsel: Mr. G. Simeon for the Public Prosecutor*  
*Mr. L. Moli for the Defendant*

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**SENTENCE**

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**Introduction**

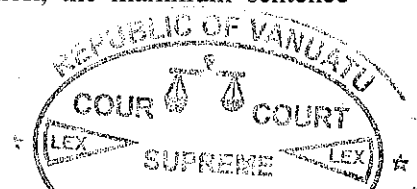
1. Mr. Tommy Moruk was jointly charged with William Kai and Mike Rarua with one count of unlawful entry and one count of theft. They were not able to be sentenced together as Mr. Moruk absconded in breach of his bail conditions and a warrant had to be issued for his arrest. This is his sentence.

**The facts**

2. The offending occurred on 10 April 2018 at Fres Wota 4 area. The defendants unlawfully entered the complainant's residence in broad day light whilst he was at work and the children were at school and stole the following items: -
  - A digital camera worth VT 20,000
  - A single gas burner worth VT 14,000
  - A DVD player worth VT 5,000
  - A hair clipper worth VT 2,600
  - A pair of brown Fijian sandals worth VT5,000
  - A caterpillar shoe worth VT 10,000
  - A Maseur sandal worth VT 3,500
  - Food stuff – 2 dozen eggs worth VT 900; cans of tuna and biscuits
  - A new pair of trousers and 1 new jersey worth VT2,000 and French plugs.

**Starting Point**

3. The starting point of sentence is determined by reference to the maximum penalty available for the offence and taking into account any aggravating or mitigating factors of the offending. The maximum sentence for unlawful entry of a dwelling house used for human habitation is 20 years imprisonment. For theft, the maximum sentence



available is 12 years imprisonment. The offending is aggravated by the fact that there is an element of planning involved and there was loss of property. The only mitigating factor of the offending is that most of the items stolen were recovered by the Police and returned to the complainant.

4. The starting point of sentence on the lead offence being unlawful entry of a dwelling house used for human habitation is 4 years imprisonment.

#### **Mitigation**

5. The defendant entered guilty pleas at the earliest available opportunity as a sign of remorse. A discount of one third is allowed for the guilty plea.
6. I have not sighted a copy of a pre-sentence report directed to be filed. Defence Counsel submits that the offending occurred in 2018. At the time of the offending, it was submitted that he was 17 years old. He is a first-time offender. The end sentence is further reduced by 12 months.
7. It was submitted by Counsel that there has been a delay of 4 years in prosecuting the matter and during this time the defendants have remained offence free. Taking into account the delay, the end sentence is further reduced by 6 months.

#### **End sentence**

8. The end sentence is 12 months imprisonment for unlawful entry of a dwelling house used for human habitation and 5 months imprisonment for theft. The sentence is to be served concurrently. This sentence is adequate punishment for your offending and should deter you from further offending. It also marks public disapproval of your actions.
9. You breached your bail conditions by absconding and a warrant was issued for your arrest. Your sentence will not be suspended and is effective from 18 January 2023 when you were remanded into custody.
10. You have 14 days to appeal if you are dissatisfied with the decision.

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

**BY THE COURT**

