

SUPREME COURT OF SEYCHELLES

Reportable
[2023] SCSC
CO 34/2021

In the matter between:

THE REPUBLIC
(rep. by Georges Thachett)

Republic

and

HUGHES ESTICO
(rep. by Amanda Faure)

Accused

Neutral Citation: *R v Estico* (CO 34/2021) [2023] SCSC (22nd March 2023)
Before: Burhan J
Heard: 27th February 2023
Delivered: 22nd March 2023

ORDER

I proceed to sentence the accused Hughes Estico to a period of three years imprisonment on Count 2.

SENTENCE

BURHAN J

[1] The accused Hughes Estico was found guilty after trial only on Count 2, after being charged as follows:

Count 1

Breaking into Building and Committing a Felony therein namely Stealing contrary to Section 291 (a) and punishable under Section 291 of the Penal Code Cap 158.

Hughes Estico of Roche Caiman, Mahe, on a date unknown to the Republic in 2021, at the Vortex investment storage facility, Providence, Mahe, broke and entered into the said building and stole therein, one grey insulation tap label high-power 19mm x 20mm valued at Sr 10 and three (3) hose adaptor which was with the garden set valued at Sr 120, being the property of Vortex Investments.

Count 2

Breaking into Building and Committing a Felony therein namely Stealing contrary to Section 291 (a) and punishable under Section 291 of the Penal Code Cap 158.

Hughes Estico of Roche Caiman, Mahe, on a date unknown to the Republic in 2021, at the Vortex investment storage facility, Providence, Mahe, broke and entered into the said building and stole therein, 300 double socket-heads, 30 switch 1 Gang 2 way, 50 switch 2 gang 1 way, 50 switch 3 gang 1 way, 100 single socket 13A, 220 multi adaptor 13A, 220 multi adaptor 13A, 300 top plug 13A, 60 insulated screw driver set, 8 tool box 12 inches, 35 roll grass cutting nylon, 120 garden tap ½ inch, 145 screwdriver star 200mm, 120 assorted paint brush, 10 bolt cutter 30”, 8 bolt 18”, 48 combination spanner set, 60 garden rack large, 500 insulation tap, 36 claw hammer 8 oz, 72 mortice lock, 86 cylinder lock, 115 energy saver E27, 60 energy saver B22, 24 LED flood light 50 watt, LED flood light 30 watt, 17 LED flood light 20 watt, 6 flood light 70 watt, 56 ball valve c x c 15mm, 120 tester 220v, 66 tyre tube glue valued at Sr 252,300, being the property of Vortex Investments.

Count 3 in the Alternative to Count 2

Breaking into building with intent to commit a felony therein namely Stealing contrary to Section 292 and punishable under the same section of the Penal Code 158.

Hughes Estico of Roche Caiman, Mahe, on a date unknown to the Republic in 2021, at the Vortex investment storage facility, Providence, Mahe, broke and entered into the said

building with intent to commit a felony namely to steal the property of Vortex Investments.

- [2] At the request of his learned Counsel Mr Lucas a probation report was called prior to the plea in mitigation.
- [3] The probation report states that the accused Hughes Estico is 47 years of age and has three children aged 26, 24 and 20 years. He has completed his school education till Secondary four and thereafter joined the National Youth Service (NYS) for one year. After NYS he had attended the School of Polytechnic and studied mechanical engineering for two years but then dropped out. The accused was employed at Pilgrims Security Firm for a period of five years and then joined the Seychelles Defence Forces for a period of eight years. The accused admits he was dependent on drugs and was homeless for some time and used to sleep near a container near the Vortex building. He still denies the charge and sticks to his defence that when he was sleeping near the Vortex building he heard a noise from inside the building and for curiosity sake had grabbed the window and looked inside and had seen someone inside but could not recognise him as it was dark. The following day when he was walking, he had seen items strewn on the path and picked them up and kept them at home. This was the defence put forward at the trial as well, in explaining how his fingerprint appeared on the inner side of the window frame. The explanation was rejected by the Court.
- [4] The probation report moves the Court that a suitable deterrent punishment be given.
- [5] I have also considered the plea in mitigation made on his behalf by learned Counsel Ms Faure who submits that the accused whilst in remand has managed to rehabilitate himself from the drug problem. Learned Counsel moves that the accused be kept at the Bois De Rose remand centre in the event of a custodial term being imposed. She further submitted that the accused wishes to start working and would most likely return to the army which he believes, he will be able to do, as he has maintained a good work record

whilst he was working there. His drug dependency had started after he left the army, as he left a disciplined structure and became entangled with bad elements.

[6] Learned Counsel further submitted that although the accused has had previous convictions due to his drug dependency problem, at this juncture as mentioned before, he feels like a changed person and does not feel that a prison sentence would allow him to continue down this path of positivity and change. She submitted Mr. Estico has an aged mother who informed him that she will need a carer soon and as she will not get one, it is the accused who would be the best person to take care of her. Learned Counsel Ms Faure therefore moved for leniency and that the accused not be punished to the fullest term in law for his rash behaviour. Should the Court be inclined to consider the facts in mitigation, she prayed that the full custodial sentence be not imposed and that the minimum sentence be imposed as recommended in the probation report. She also moved that Mr. Estico be placed in an institution that would help him to best rehabilitate and continue on the positive path.

[7] I have considered the submissions made by the learned Counsel and the recommendations of the probation officer and the facts set out in the particulars of offence with which the accused has been found guilty. The charge set out in Count 2 is a serious charge which is further aggravated by the value of the items stolen being SCR252,000/-. Therefore, I am of the view that a custodial term of imprisonment must be given. The accused has not expressed remorse, however, it appears that the stay in remand has benefitted him as his drug dependency is said to have decreased.

[8] Giving due consideration to all the aforementioned facts, I proceed to sentence the accused Mr Hughes Estico to a period of three years imprisonment on Count 2. During this period of imprisonment, the accused should participate in rehabilitation programs available, in the hope of completely curing him of his addiction.

[9] Time spent in remand to count towards the sentence.

Signed, dated and delivered at Ile du Port on 22nd March 2023.

M Burhan J