

IN THE MAGISTRATE'S COURT AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. 180 of 2016

STATE

V

OSEA NAVULO

Counsel : **Ms Vavadakua. A** for the Prosecution
Mr Paka. A for the Accused

Sentence : **13 July 2018**

SENTENCE

1. *Osea Navulo* today is for sentencing for one count of *Act With Intent To Cause Grievous Harm* for contravening *section 255(b)* of the *Crime Decree 2009*.
2. On 30 March 2016, the High Court extended its jurisdiction to this court to deal with this offence.
3. On 14 March 2017, you pleaded guilty to the charge in the presence of your counsel. I find your plea to be unequivocal as it was given on your own free will.

4. The brief summary of facts are:-
"The accused, Osea Navulo and the victim are brother in laws. On 26 March 2016, the accused and the victim had an argument, the victim threaten to punch the accused. The accused took the cane knife and swing it towards the victim. At the time the accused and victim were standing close to each other. The cane knife landed on the victim's left jaw. The accused jumped out of the window and ran to the main road. The victim's wife who is the sister of the accused, seek assistance and took the victim to the Seaqaqa Health Centre. The victim had a large 15cm wound.
5. You admitted to the above summary of facts on 28 April 2017, and convicted as charged. Your Counsel filed your mitigation submission on 5 June 2017.
6. The maximum penalty for the offence of *Act With Intent To Cause Grievous Harm* is life imprisonment. The tariff is from suspended sentence (where there was no or minimal injury and where parties have resolved their difference) and 2 and half years to 8 years (where there was serious injury, a brutal assault and the use of a weapon).
7. The aggravating factors are:-
 - (i) *using of weapon (cane knife).*
 - (ii) *weapon was used to strike the victim and caused injury to the victim.*
 - (iii) *the accused is your brother in law- domestic violence case.*
 - (iv) *offended at home where respect and peace should be displayed.*
 - (v) *when the victim was injured you run away and never assist in taking the victim to the hospital.*
8. The compelling mitigating factors are:-
 - (i) *young offender of 27 years old.*
 - (ii) *first offender.*
 - (iii) *remorseful.*
 - (iv) *reconciliation as confirmed by the victim who was called as a character witness for the accused together with the accused father.*

9. For your sentence, I pick 5 years as my starting point. I add 2 years for the aggravating factors and that increase your sentence to 7 years imprisonment. I reduce 2 years for your mitigations and that reduce your sentence to 5 years imprisonment. I reduce 1 year and 6 months as your one third entitlements for your early guilty plea. That reduce your sentence to 3 years and 6 months imprisonment.
10. There was no information provided to the court on the remand period. In perusing the court record, I noted that you were in remand for 1 week. I further reduce your sentence by 1 week to reflect the period in which you were in remand. That reduce your sentence to 3 years, 5 months, and 3 weeks imprisonment.
11. Your final sentence is 3 years, 5 months, and 3 weeks imprisonment.
12. In this sentence, I have considered *section 4* of the *Sentence and Penalties Act* and the principle of rehabilitation. Considering all the circumstances of the case, I find that deterrent sentence both specific and general must be imposed to deter people who intend to commit such act.
13. Accordingly, I order that you are to serve your sentence with immediate effects with non-parole period of 2 years.
14. The Interim Domestic Violence Restraining Order issued on 1 April 2016 is now made permanent.

28 days to appeal



A handwritten signature in blue ink, appearing to read "C. M. Tuberi".

C. M. Tuberi
RESIDENT MAGISTRATE