

REX

-v-

HAMETI MIKAELE VEA

BEFORE THE HON. JUSTICE SHUSTER

**HAVING HEARD** - Crown Counsel, Mr. Tu'utafavia and from the defendant in person.

**The defendant appears for sentencing** - having pleaded guilty on arraignment on 19<sup>th</sup> July 2011; to an indictment, alleging a single count of grievous bodily harm, involving an apparent unprovoked attack on his eight year old son, which involved his son being hospitalized for 19 days, and operated on, for a depressed skull fracture - under general anesthetic

On arraignment on 17<sup>th</sup> July 2011 the defendant was told he would be given full credit for his early guilty plea and, the case was adjourned for the preparation of a PSR. The defendant was remanded in custody for the preparation of the PSR in view of the nature and the seriousness of the offence and his past record of offending

It should be noted that the defendant is NOT a first time offender, but he had fully admitted his part in the offending to the police and the court. In due course a medical and psychiatric report was requested from the Viola Hospital and that report has been considered in sentencing today.

**THE BRIEF FACTS – as accepted**

The facts revealed that on 24<sup>th</sup> March 2011 the defendant was involved in an incident when he had an argument with his wife when he was preparing to go to work as a security guard. The Crown says the defendant was angry after the argument with his wife

The defendant whilst he was still angry turned his attentions towards his eight year old son he shouted at him to stop playing, and to go and learn his multiplication. The Crown say it is not clear if the defendant's son was disobedient towards his father. All of a sudden, the Crown say the defendant picked up a metal torch and he threw it at the complainant. The torch hit the complainants head with a loud thud. The Crown say, the defendant then walked over and he slapped the victim on his right cheek.

According to the Crown the complainant became dizzy he fell unconscious due to the loss of blood from where the metal torch had struck his head.

At first the complainant's mother treated the complainant at home he was not taken to hospital until the following day. The complainant was kept in hospital for 19 days and he underwent surgery for a depressed skull fracture.

The defendant was arrested and to his credit he fully co-operated with the police and with this court, by pleading guilty at the first available opportunity

**On 13<sup>th</sup> October 2011 the defendant appeared for sentencing.**

Having considered all the facts of the case, including the contents of the PSR – the Medical and Psychiatric Report - considering the fact that the defendant pleaded guilty at the first available opportunity and, the fact the defendant fully co-operated with the police and with this court – and has apologized to his victim.

Having heard from the defendant in person and noting that he is NOT a first time offender. I told the defendant in open court that my starting point for an attack on an eight year old boy causing injuries as described in the medical report on a Not Guilty plea after trial warranted an immediate custodial sentence of six/seven years [6/7yrs] imprisonment on a NG plea.

**Taking everything into account, the defendant is sentenced as follows:-**

**Count 1** – The defendant is sentenced to **FIVE YEARS** in prison – The last **TWELVE** months of which, is suspended conditional upon the defendant

keeping the peace and being of good behaviour and committing no further offending during the period of the suspension of the sentence of imprisonment

### NOTES - OBSERVATIONS

I take into account the defendant pleaded guilty at the first available opportunity but I also note the defendant has three previous convictions for assault, and one involved an assault on his daughter the other an assault on his wife.

I take into account the report from Doctor Mapa Puloka and his recommendation that the defendant needs constant clinical monitoring and medication as a form of treatment. According to Dr Puloka the prognosis is relatively poor since the defendant's abnormal behaviour is entirely dependant on the nature of the environment and, the Psychosocial support the defendant has at the time. I take into account the defendants service with the armed forces in Iraq, and, his deteriorating violent behaviour since returning from Iraq. I also take into account his prognosis as a person subject to - **INTERMITTENT EXPLOSIVE DISORDER.**

I agree with Doctor Mapa Puloka that the defendant should serve his sentence in the hospital wing of Hu'atolitoli prison. This is to be a deterrent sentence, applying the principles enunciated in **Crown -v- Cunningham**

**The five year sentence of imprisonment - with the last year suspended is to run from 19<sup>th</sup> July 2011**

A copy of this order is to be served on the prison authorities and also the probation service.

DATED 13<sup>th</sup> OCTOBER 2011



JUDGE