

IN THE MAGISTRATE COURT OF
THE REPUBLIC OF VANUATU

Criminal Case No. 24/ 608 MC/CRML

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

v

RONNIE BONG

Date: 24th April 2024

Before: Magistrate P. Toaliu

Counsels: Aru. J for the Public Prosecutor

Malites. P of the Public Solicitor's office for the defendant

SENTENCE

A. Introduction

1. Mr. Bong was charged with three counts of Domestic violence:
 - a) Count 1: domestic violence contrary to section 4(1)(c) and 10(1) of the Family Protection Act.
 - b) Count 2: domestic violence contrary to section 4(1)(b) and 10(1) of the Family Protection Act.
 - c) Count 3: domestic violence contrary to section 4(1)(a) and 10(1) of the Family Protection Act.
2. On 11th April 2024, he pleaded guilty to all counts of offences and was accordingly convicted on his own plea and admission to the facts.
3. Let me thank counsels for their submissions.

B. Facts

4. The complainant and the defendant were in a de-facto relationship but were living separately.
5. On 25th February 2024 at 2:00am in the morning, the defendant arrived home after a night out drinking with friends. The complainant was awoken by the sound of the defendant knocking on the door claiming he came to collect the children.
6. The complainant opened the door and the defendant followed her into the bedroom while demanding intercourse. She refused as they had already been separated but the defendant continued to insist.
7. When he realized that the complainant would not give in, he became angry and punched her once on her right ear.
8. The complainant who was seated at that time remained seated after Mr. Bong punched her. She was given a window of opportunity to escape when Mr. Bong moved briefly into the living room. She ran to her mother's house and spent the night there.
9. Later that day, after learning that the defendant had left, the complainant and her youngest child, Michael went home to collect Michael's clothes. On their way, they met Mr. Bong who aggressively demanded that they return home.
10. He picked up a piece of timber and walked towards the complainant while uttering words to the effect: *yu stap ronweh long problem from wanem? Evritaem problem yu stap go from police wetem kot, wanem e wrong long you?*
11. For unknown reasons, Mr. Bong discarded the timber and proceeded to assault the complainant with his bare hands. He punched her once on the right side of her face causing the complainant to fall to the ground where he proceeded to kick her. The couple's children watched in horror as these events unfolded.

C. Sentence Start Point

12. The sentence start point is to be assessed by having regard to the maximum sentence available for this offending, and factoring in both the aggravating and mitigating aspects of the offending.
13. The maximum sentence for the offence of Domestic violence is and imprisonment term of 5 years or a fine not exceeding 100,000VT or both.
14. The following are the aggravating factors:
 - The offendings were unprovoked.

- There was a breach of trust.
- The offending caused distress to the complainant.
- The offending (Count 1) happened in a domestic setting/ family home where the complainant should be feeling safe.
- The offendings (Counts 2 & 3) occurred in the presence of the couple's children.
- The use of a weapon to intimidate the complainant (Count 2).
- Nature of injuries sustained by the complainant
 - A medical report prepared by Nurse Santhy David from the Vila Central Hospital on 26th February 2024 revealed the following:
 - Laceration on Left Knee
 - Laceration on left elbow
 - Back pain
 - Facial swelling

15. There are no mitigations to the offendings.

16. In arriving at a starting point, I consider the cases of *PP v Nasse* [2020]¹, *PP v Holi* [2021]² and *PP v Petro* [2020]³. After consideration, I set a global starting point of two years imprisonment.

D. Mitigation

Guilty plea

17. Mr. Bong pleaded guilty at the first available opportunity. As such, I award the highest available deduction under this heading – 1/3.

Personal Factors

18. Mr. Bong comes from the island of Ambrym and with the complainant, has three children.

19. He is a first-time offender.

20. He is unemployed but is engaged in the seasonal employment in Australia where he has served under two contracts already.

21. He is now separated from the complainant and claims that he is intending to move on from the complainant. However, he is willing and determined to assist the complainant in meeting financial expenses for the children in the form of school fees and others and is willing to assist with the development of their children.

22. Mr. Bong is stated to be remorseful.

¹ VUCA 40

² VUMC 25

³ VUMC 8

23. He spent one month in custody before being released on bail.

24. I further reduce two months for Mr. Bong's personal factors.

E. End sentence

25. The sentence I will impose today will:

- a. Adequately punish Mr. Bong.
- b. Promote a sense of responsibility for the harm done.
- c. Denounce the conduct.
- d. Send a message of deterrence to the community from this type of behavior.
- e. Protect the community.

26. I sentence Mr. Bong to 13 months imprisonment.

27. I now turn to whether it is appropriate to suspend Mr. Bong's sentence. I consider section 57 of the Penal Code [CAP 135] where consideration must be given to [i] the circumstances of the case, [ii] the nature of the crime and [iii] the character of the offender.

28. I am of the view that a suspended sentence is appropriate for Mr. Bong. I suspend his sentence for a period of two years.

29. Mr. Bong is warned that if he re-offends within this two-year period starting today, he will be immediately arrested and incarcerated and will serve the remainder of his sentence in custody.

30. Mr. Bong, you have 14 days to appeal the sentence if you are not satisfied.

Dated at Port Vila this 24th day of April 2024

BY THE COURT



Magistrate