

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

**Criminal Case No.
1519/24MC/CRML**

PUBLIC PROSECUTOR

V

JULES NIMBAL

*In Attendance: Mr. Solomon Asang for the State
Ms. Akineti Yeeon for the defendant*

SENTENCE

A. Introduction

1. Mr. Jules Nimbal pleaded guilty on the charge of intentional assault and domestic violence.
2. He is therefore convicted as charged.

B. Facts

3. The complainant is Marie Rose Nimbal. She is married to the defendant's brother.
4. She filed a complaint in the Police Station at Luganville alleging that on 14 May 2024 the defendant assaulted her at their residence at Peleru Area.
5. She reported that at the material time, the defendant had an intense argument with his daughters for insulting their stepmother (de facto partner).
6. The complainant then approached the defendant and his children and tried to calm them down.
7. The defendant then told her to keep quiet and picked up a piece of firewood and struck her with it aiming at her head.

8. The complainant tried to protect her head by putting her hand over her head when the wood landed on her hand.
9. The defendant then assaulted her again on her face and cheeks.
10. The Complainant then took stones and threw them at the defendant and proceeded to take a knife to defend herself with it.
11. The defendant then retreated from the complainant.
12. The medical reported tendered as evidence in court showed the the complainant sustained fracture on her left hand, swelling on her right cheeks and she experienced body pain.
13. The police arrested the defendant and when cautioned, he admitted his offending.

C. Sentence starting point

14. The maximum penalty of intentional assault is 10 years imprisonment and for domestic violence - 5 years imprisonment or VT 100,000 fine or both fine and imprisonment.
15. There are no mitigating aspects of the offending. The aggravating factors are:
 - There was breach of trust.
 - Offending occurred in the confine of the complainant's home where she is entitled to feel safe and secure.
 - Use of wood as a weapon to inflict harm on the body of the complainant.
 - The complainant is considered vulnerable and was defenseless during the assault.
 - The multiple assaults on the body of the complainant.
16. In considering the aggravating factor, I set a starting point in a global scale of 2 years imprisonment.

D. Deductions for Guilty Plea

17. The defendant pleaded guilty at first opportunity.
18. He is therefore entitled to one-third reduction of his starting sentence, which is 8 months.

E. Personal Factor

19. The defendant is 62 years of age.

20. He is currently living with his new partner and his five children from his previous relationship at Peleru Area.
21. His youngest son is 14 years old.
22. He sustains his family with his job as a carpenter.
23. He is a first time offender.
24. He expressed remorse for his actions.
25. He pleaded guilty at first given opportunity.
26. He cooperated with the Police during investigation.
27. He is willing to reconcile with the victim.
28. He has been remanded in custody until today for a period of 1 month and 12 days.
29. For his personal factor, I make a further discount of 7 months.

F. End Sentence


30. Taking into account all matters in relation to all matters aggravating and mitigation personal to your offending, the end sentence imposed on your offending is 9 months imprisonment.
31. However, I accept that your sentence be suspended for 2 years after taking into account your responsibility to take care of your family through your employment, the time spent in custody and the remorse expressed for your offending.
32. This means you must not re-offend within 2 years.
33. If you reoffends again within 2 years, this suspended sentence will be lifted and he will serve 8 months imprisonment together with any other sentences imposed on you for your re-offending.
34. For completeness, I also order VT 15,000 and VT 2,000 prosecution cost to be paid in 30 days from today's date.
35. This sentencing principles desired to be achieved in your sentencing (*Public Prosecutor v Vahirua* [2018] VUSC 15) are:
 - To hold you accountable for your conduct
 - To protect the community
 - To denounce your criminal conduct
 - To promote sense of responsibility for the harm done
 - To assist you in your rehabilitation and reintegration.
36. The Officer in charge of the Correctional Centre in Luganville is to release the defendant forthwith.

G. Appeal

37. He has 14 days to appeal to the Supreme Court if he is not satisfied with this sentence.

DATED at Luganville, this 3rd day of July 2024

BY THE COURT



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MOSES PETER
Senior Magistrate

