

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

**Criminal Case No.
381/24MC/CRML**

PUBLIC PROSECUTOR

V

NICOLSON TAMATA

*In Attendance: Ms. Sharon Allanson for the State
Ms. Barbara Taleo for the defendant*

SENTENCE

A. Introduction

1. Mr. Nicolson Tamata pleaded guilty on the charge of intentional assault causing permanent injuries.
2. He is therefore convicted after having conceded to the facts.

B. Facts

3. The complainant is Livo Wora, a 36 year old from Malo Island.
4. He filed a report in the Police alleging that on 8 February 2024, he went to the defendant's house to collect water fees, as he is the responsible person in the village community to do that task in each households.
5. Upon arriving at the defendant's residence, he saw the defendant's father and explained the purpose of his visit into their residential home. To collect water fees.
6. The defendant's father was cross at the complainant for demanding water fees so he confronted the complainant and started to yell at him and told him to go away.

7. The complainant however insisted that they give him the money or else he will disconnect water circulation into their residence.
8. The defendant was around and having heard the complainant say he would disconnect the water in their residence if they do not give him the water fees, he walked towards the complainant and assaulted him on his left jaw.
9. The complainant sought medical assistance in the hospital and the finding of the medical practitioner revealed he suffered a painful jaw making it difficult in chewing food.
10. Moreover, he suffered sore throat and had a fractured left jaw. Over time, he would experience discomfort due to his fractured jaw.
11. The defendant was arrested and when cautioned he admitted his offending to the police.

C. Sentence starting point

12. The maximum penalty for intentional assault causing permanent injury is 10 years imprisonment.
13. There are no mitigating aspects of the offending. The aggravating factors are:
 - There was a breach of Trust.
 - Causing the complainant to suffer injuries.
 - Everyone in the community are entitled to feel safe and secure at all times.

14. In considering the aggravating factor, I set a starting point of 24 months imprisonment.

D. Deductions for Guilty Plea

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

E. Personal Factor

- The defendant is 22 years of age.
- He is the youngest out of four siblings.

- He is single and is from Malo Island.
He sustains himself and his family through his employment as a construction worker in the community.
- He also assists his parents in maintaining their family plantation.
- He has always maintained a good working relationship with his family and community.
- His highest level of education is year 9.
- He expressed remorse for his actions and proposed to reconciliation with the complainant but he refused to accept it.
- He pleaded guilty at first given opportunity.
- He cooperated with the Police during investigation.
- He has been remanded in custody for four weeks and two days in the Correctional Centre.
- For his personal factor, I make a further discount of 7 months.

F. End Sentence

16. The sentencing principles achievable in this case amongst others expressed in *Public Prosecutor v Vahirua* [2018] VUSC 15 are to hold you accountable for your conduct, to denounce your criminal conduct, to protect the community, to promote sense of responsibility for the harm done and to assist in your rehabilitation and re-integration.
17. 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.
18. I note from the submissions filed by your counsel concerning your pre-custodial period information whereby have spent a months and 2 days in custody.
19. Moreover considering you are only 22 years of age and that you support your family through your employment, I have accepted to suspend your sentence for 12 months.
20. This means you must not re-offend within 12 months.
21. If you reoffends again within 12 months, this suspended sentence will be lifted and he will serve 9 months imprisonment together with any other sentences imposed on you for your re-offending.
22. For completeness, I also order VT 10,000 and VT 2,000 prosecution cost to be paid in 30 days from today's date.

G. Appeal

23. You have 14 days to appeal to the Supreme Court if you are not satisfied with this sentence.

DATED at Luganville, this 19th day of August 2024

BY THE COURT



.....
MOSES PETER
Senior Magistrate

