

PUBLIC PROSECUTOR

V

DAVID HARRISON

Coram: *Magistrate FSam*

Counsels: *Ms. Sewen_F - OPP*

Mr. Amos_K.S – Defence & Defendant.

REASON FOR SENTENCE

Background/Introduction

1. The defendant pled guilty to two counts of domestic violence and one count of threatening language, and with no objection to the facts submitted, he was convicted of each count respectively.

Facts

2. The facts in relation to counts 1 and 2 pertained to the first complainant who is the defendant's mother. The first offending occurred sometimes on the month of June 2024, at Freswota area, when the defendant came home drunk and was arguing with his girlfriend, when the complainant intervened to stop the argument, and the defendant called out to her words to the effect "solmit" and punched her, causing her to fall to the ground. He then squeezed her neck, telling her to remain quiet or he will hit her unconscious. Some relatives attended to the scene, and the defendant let go of the complainant and ran away.

3. The second offending happened on the 13th of July, 2024, around 5PM, the defendant again came home after drinking alcohol with some of his friends, and started



swearing at the complainant, saying words to the effect “*kanface yu kam out long place ya bae mi kilim tet yu.*” The complainant tried to explain to him the phone he was referring to was her phone, but he would not listen and continued to threaten her.

4. In relation to count 3 of threatening language, the second complainant received a phone call from his girlfriend in the evening of 13th of July, 2024, stating that the defendant was sitting outside the front door to their house, drinking, and this caused his girlfriend to be afraid. Upon his return to the house, the complainant’s partner did not find the defendant as reported, however he did receive another call that the complainant was sitting at the road market close by, wanting to see complainant. When he walked to where the defendant was, he saw him holding a 12mm rod, and he was walking towards the complainant communicating the following words to him, “*sting kok, fuck you*”. The police were called to the scene and the matter was reported.

Starting Point.

5. In considering an appropriate sentence in respect of your offending, I must consider the relevant factors which includes the aggravating factors and mitigating factors to your offending.

6. The maximum penalty for the offence of domestic violence is an imprisonment term of 5 years, or a fine of VT 100,000 or both fine and prison term, and in relation to threatening language, a penalty of prison term not exceeding 3 years. Such penalties reflect the seriousness of your offending.

7. From the facts and submissions, I accept the following as aggravating factors to his offending:

- In respect of domestic violence charges, a serious breach of trust in the relationship between the defendant and his complainant mother, especially when the offending happened within the vicinity of their own home – where the complainant was supposed to feel safe, loved and cared for.
- The complainant was vulnerable to his assault and threats towards her.



- The offending caused the complainant to be fearful for her safety and life.
- The victim suffered injuries from the assault on her vulnerable part of the body (head).
- The defendant's actions were committed whilst he was under the influence of alcohol on both occasions.
- In respect of the count of threatening language, the defendant's use of offensive language against the second complainant, shows he has no respect for others or for the community around him.
- That he threatened the second complainant with a weapon, and at night time, where the complainant would be vulnerable to his attack if he did pursue it upon him.

8. There are no mitigating factors to your offending.

9. I appreciate the relevant precedents submitted by both counsels. And having so considered, I set starting point as follows: For counts 1 and 2 – domestic violence – a starting point of 18 months concurrent imprisonment sentence; for count 3 – threatening language – a starting point of 12 months imprisonment.

Mitigating and Personal Factors.

10. You entered a guilty plea at the earliest available opportunity, from which I award a one third deduction from the starting point.

11. I accept that you have no prior convictions, and that you have reconciled with the two complainants.

12. I also consider your personal factors as submitted, and having so considered the relevant factors, I make further deductions.



End Sentence

13. I take note of the defendant's 3 days in custody, from when he was remanded till he was released on strict bail conditions.

14. His end sentence is as follows: For counts 1 and 2 of domestic violence – 8 months concurrent imprisonment sentence; for count 3 of threatening language, 4 months imprisonment sentence.

15. That the sentence of threatening language will be served consecutively to the concurrent sentences of domestic violence.

Suspension & Orders

16. I also consider that if his imprisonment sentences be coupled with supervision, his sentence may be suspended, with due regards to the relevant factors.

17. With that, I order his sentences to be suspended for a period of 2 years, and he is also ordered to be of good behaviour, and to undertake 6 months supervision, wherefrom he must undergo an anger management programme dealing with consumption of alcohol and related topics, that would help him towards his rehabilitation journey and reintegration to his community.

18. That consequences of non-compliance to his suspended sentence and given orders is explained to him.

19. The defendant is informed of his right to appeal his sentence.



DATED at Port Vila, this 03rd October, 2024.

BY THE COURT



FSam
Magistrate

