

PUBLIC PROSECUTOR

V

JEAN PAUL SIMEON

CHARGE

INTENTIONAL ASSAULT

SENTENCE

Imprisonment for 2 years

REASONS FOR SENTENCE

On 23 August 1994, the accused viciously attacked his de facto wife with a bush knife. His reason for doing so, he claims was because she swore at him and swearing is regarded as improper by him. The swearing was alleged to have been offensive and insulting to his family. Whilst this may have been something which happened immediately before the attack, I rather think that the reason for the attack was something quite different.

I think that the accused attacked his wife because he regarded her as his property and believed that if she did something he did not like, it was his right to assault her. I think that it is likely that the accused had come to force his wife to return to live with him, she apparently having left him and returned to live with her father. It seems that there had been trouble in the relationship for some time. On other occasions after there had been problems between them, the victim had returned to her father and the accused had gone and taken her back. It is alleged that this is not the first time that the accused has assaulted his victim and that on one other occasion he used the bush knife. This time, the bush knife was swung at the neck and head of the victim. The first blow cut the woman's neck. She then put her hand up to defend herself from further blows and was severely cut across the back of the left hand. It is possible that had she not defended herself in this way, she would have suffered far more severe injuries or even have died. The result of the injuries is severe scarring to both the neck and the hand. This scarring will be permanent. She still has pain and swelling to the hand. It was alleged by the prosecution in the information, that the ligaments of the hand were severed. The medical report does not state this and from examining the victims hand, when she came to the Court, it seems that she has recovered the substantial use of the hand. Nonetheless, she will carry the reminder of this vicious attack for the rest of her life.

At the time of the attack the couple had one child and the victim was and is now pregnant with her second child.

On behalf of the accused it is said that he did not intend to cut her with the knife but to beat her with the flat side of the blade. Assuming that this is correct, then the attack perhaps did not carry with it, an actual intention to cause the type or severity of harm it

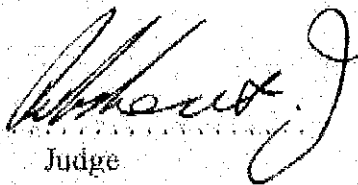
in fact caused. To swing a bush knife at the head or neck of another person however, is an inherently dangerous act which anyone considering for a moment, ought to realise could cause grave injury or death. The use of the bush knife as a weapon cannot be tolerated.

The accused is a first offender and has pleaded guilty. He is entitled to credit for this, but I do not think that he has really demonstrated genuine remorse. I am not certain that he in fact is aware of how wrong his action is. Although I am reluctant to send first offenders to prison, if that course can possibly be avoided, I think that this offence is of such a grave nature that it requires the sentence I have imposed. If it were not for the plea of guilty and the fact that this is a first offence, the sentence would have been considerably longer. The accused instructed his counsel that the differences between the couple had been overcome and that they intended to live together again. When the victim was brought to the Court she instructed the Learned Public Prosecutor that this was not so and that she did not want to have anything to do with the accused. I think that the accused in giving these instructions demonstrated his lack of consideration for his def facto wife and his expectation and belief that he could treat her as his property to deal with as he liked.

The offence is one which is prevalent in the community and steps must be taken to eliminate it. Women should not be required to live in fear of being beaten every time they do something their husband or partner finds disagreeable. Men and women are equal and their rights will be protected by the law.

In a recent case of domestic violence I did not send the offender to gaol. I think that this case is distinguishable from that for a number of reasons. The major distinction here is the use of a potentially lethal weapon. This factor alone justifies the distinction in sentencing. In the earlier case a different and difficult factor was that the accused was the care giver to the children of the family and to have sent him immediately to gaol would have caused then considerable difficulty.

You have the right to appeal against this decision if you wish to do so. To appeal you must give notice in writing within 14 days of this date.



Judge

2 November, 1994

