

(Criminal Jurisdiction)

**PUBLIC PROSECUTOR**

**VS.**

**BENNETH TARIBITI**

Mr Justice Oliver A. Saksak  
Mrs Anita Vinabit – Clerk

Mr Eric Molbaleh for Public Prosecutor  
The Defendant in person

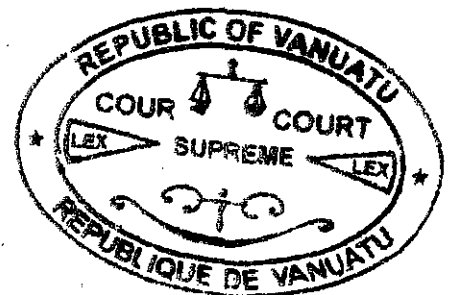
## **SENTENCE**

The defendant was charged with two counts of driving under the influence of alcoholic liquor contrary to section 16 of the Road Traffic (Control) Act Cap 29 (the Act); and with causing death by reckless driving contrary to section 12 of the Act.

No penalty is specified under the Act for the first count. For the second count a maximum of VT500.000 fine or to imprisonment of not exceeding 5 years, or to both such fine and imprisonment.

The defendant was the driver of a Public Transport Vehicle Reg. No. PPt.120 that had an accident on 8<sup>th</sup> April 2007 causing the death of one George Tari.

Today being the first available opportunity the defendant opted to take his pleas by informing the Court he does not wish to retain



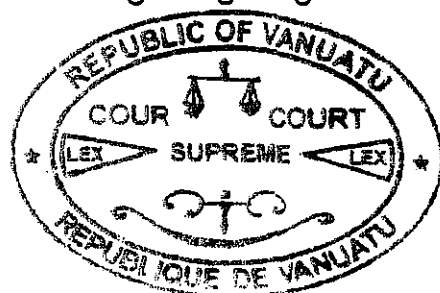
services of a lawyer. He therefore pleads guilty to both counts and the Court entered convictions against him on both counts.

The defendant agrees with the brief facts as presented by the prosecutor. He says he was fully drunk and did not realize what had happened until the vehicle had capsized and he was lying beneath the truck when he realized he had had an accident. He later went blank again and only woke up in hospital. He said on 9<sup>th</sup> April a customary compensation was organised and performed to the families of the victim. He produced the document signed by Chief Dickinson Vusilai showing custom valued in momentary terms at VT472,100.

In sentencing the defendant I have considered the following aggravating features as submitted by Mr Molbaleh:-

- (1) That he drove under the influence of liquor and that he could have foreseen the possibility and consequences of an accident.
- (2) He had passengers with him.
- (3) He had been drinking continuously for 3 days, including that on which the accident occurred.
- (4) He was reckless in his driving causing the death of one of his passengers.

Against those aggravating features I consider the following mitigating factors:-

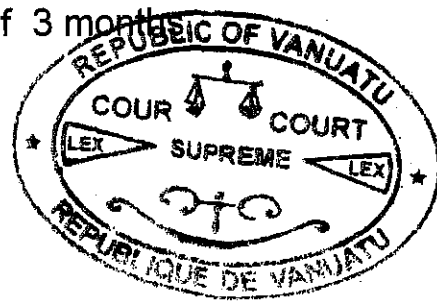


1. His frank pleas of guilty at the first opportunity without legal advice and assistance, saving a lot of time and costs.
2. His remorse shown by the customary settlement and compensation done on 9<sup>th</sup> April 2007, just one day after the incident to the value of VT472,100.
3. The deceased had manipulated and controlled the defendant by giving him directions of where to go and what to do.
4. It was the deceased who bought drinks and made the defendant drunk and then manipulated him in his driving.
5. He is a young man with no previous criminal record and is a first offender.

Weighing these factors, I consider that this is a case where the Court should impose a fine for the first count and a suspended term of imprisonment for the second count. In addition, the Court considers imposing a disqualification order under Section 55 of the Act.

I therefore impose the following sentences:-

1. For Court 1, a fine of VT50.000 payable within 2 months from today (by Monday 4<sup>th</sup> February 2008). In default of payment, the defendant will be imprisoned at the Correctional Centre in Luganville for a period of 3 months.




2. For Count 2 the defendant is sentenced to imprisonment for 2 years suspended for a period of 2 years from today during which period the defendant must not re-offend by committing any other criminal offences.
  
3. In addition, the Court hereby orders that the defendant be disqualified from driving any motor vehicle for a period of 2 years from today. He is ordered to surrender his driving license to the Court today.

That is the sentence of the Court.

**DATED at Saratmata this 3<sup>rd</sup> day of December 2007.**

**BY THE COURT**

  
**OLIVER A. SAKSAK**

**Judge.**

