

PUBLIC PROSECUTOR
V
SUATU IAWAFIL

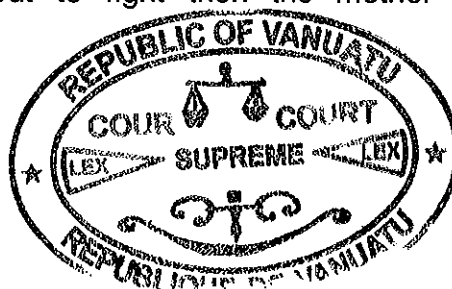
Coram: Chief Justice
Counsel: Mr. T. Karae for the Prosecution
Mr. T. Loughman for the Defence

SENTENCE

1. Mr. Suatu lawafil, on 7th June 2010 you entered a guilty plea on one count of Intentional assault, contrary to section 107 (c) of the Penal Code Act Section 107(c) prohibits this offence. It provides:

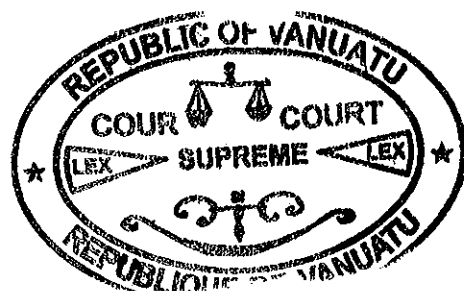
*"107. No person shall commit intentional assault on the body of another person.
Penalty:
(c) If damage of a permanent nature is caused, imprisonment for 5 years."*

2. The facts of this case are not disputed by your lawyer and they are this. On or about the 1st of February 2010, the complainant and the family were at home. You are the elder brother of the complainant. Sometime around 5:30am to 6:30am on that day, Chief Peter sent his uncle Charley to come and borrow an axis from the complainant's father to cut down a coconut tree. You saw that your Dad gave your axe for the Chief to use and thus made you angry.
3. You then sent your wife immediately to bring back the axe from which the Chief was about to use. When your wife was returning back the Complainant's father was angry and took another axe and gave it to the Chief to use. The Complainant's father then told your wife to tell you to remove the entire iron sheet from the roof of their house as it was their and not yours.
4. You heard what your father said to your wife and you were mad. You then took out your knife and walked to the road to wait for your father to cut him. Mr. Iapum tried to talk with you to calm down but you threatened to cut him, so you were quarrelling and were about to fight then the mother of the



complainant and the complainant came and tried to stop you from assaulting each other, but you turned and went straight for the complainant. You tried to cut the Complainant but missed as the Complainant moved out. Then the Complainant moved in to punch you but slip because the ground was wet and so the Complainant fell on the ground and you then swung the knife to cut the Complainant head but the Complainant's managed to block the knife with his hands.

5. The Complainant sustained deep lacerations to his left forearm mainly a fractured bone, severe tendon injury and severe nerve damages.
6. You were then arrested on the 2nd of March 2010. You were cautioned on that day and admitted to assaulting the complainant.
7. When I consider the appropriate sentence, I am going to impose on you, I must as I now do denounce on behalf of the Court your behavior. On 1 March 2010, you seem to think that it is alright for you to use your bush knife to cut your father; your younger brother, the complainant intervened and you had a fight with him and you cut him with your bush knife. You must understand that it is unacceptable and intolerable to behave in the way you did on 1 March 2010. The offence you have committed is a serious offence. The seriousness of your offending is reflected in the maximum penalty set by law. You offending is aggravating by the following aggravating factors:
 - You used a sharp bush knife which is a weapon.
 - You are the elder brother of the Complainant and as such there is a breach of trust.
 - You acted out of anger.
8. In mitigation, you are a first time offender; you cooperate with the police; you pleaded guilty at the first opportunity given to you; you also through counsel express your apologies and remorsefulness for what you have done; you also instructed your lawyer to tell the Court that you will not re-offend and you perform a custom ceremony to your brother complainant and your family.
9. For offences of this nature, the starting point of the sentence is 2 years imprisonment. I increase this sentence to 2 years imprisonment, to reflect the aggravating factors, I then balance the aggravating factors with the mitigating ones and I sentence you to 2 years imprisonment.
10. I consider but I decline to suspend your sentence of 2 years imprisonments.
11. because of the gravity of your offending. You have already spent 29 days in custody. This will be deducted in your favour for the total of 2 years

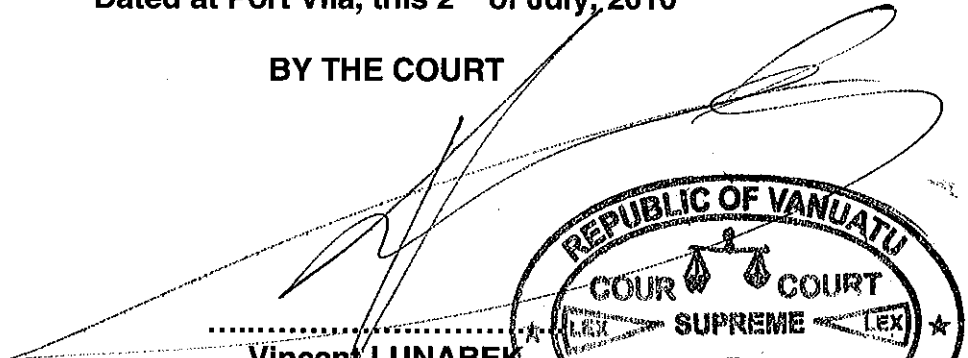


imprisonment term. You are ordered to serve a term of 1 year and 11 months and 1 day imprisonment with immediate effect.

12. You have 14 days to appeal this sentence if you are unhappy with it.

Dated at Port Vila, this 2nd of July, 2010

BY THE COURT


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Vincent LUNABEK
Chief Justice

