

PUBLIC PROSECUTOR

-v-

**PETER MARCEL
HAPI NUMANIAN**

Coram: V. Lunabek CJ

Counsel: Mr Tristan Karae for the Public Prosecutor
Mr Henzler Vira for the Defendants

Date of plea: 24 August 2011

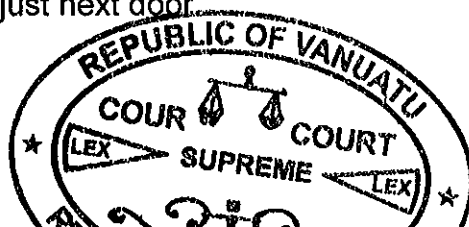
Date of sentence: 25 August 2011

SENTENCE

This is the sentence of Defendants: Peter Marcel and Hapi Numanian. You are each pleaded guilty to one count of Intentional Assault, contrary to section 107(b) of the Penal Code Act [CAP.135].

The brief facts of your offending are provided by the prosecution. Your lawyer accepted these facts on your behalf. They are set out as follows:

1. On or about the 29th December 2009 the complainant Toara Napa lodged a complaint at the Isangel Police station against the Defendants: Peter Marcel and Hapi Numanian for assaulting him.
2. On or about the 25th December 2009, being the Christmas holidays the complainant and the family were preparing food to host a farewell party at his home with his family. The farewell party was for his family who were heading back to New Caledonia. On that day the complainant was drunk and had been drinking since the 24th December 2009. The complainant head out to see a Mr Harry Kitou to invite Mr Harry to come over to the complainant's house to join the farewell feast.
3. When the complainant returned the complainant heard Chief Peter Marcel asking the complainant's wife if he could eat some fish. The complainant told Chief Peter Marcel that he should not ask but should just go into the kitchen and help himself. The Defendant Chief Peter Marcel then walked into the complainant's kitchen and the complainant followed. In the kitchen the complainant told Chief Peter that he looks up to the Defendant as he's big brother. The Defendant Chief Peter then scolds and told the complainant that 'he is not God' then he left and went to his house which was just next door.



1

4. Few minutes later the Defendant Hapi Numanian came to the complainant's house and the complainant told Hapi to leave by chasing him. The complainant was going into the kitchen when he saw the Defendant Chief Peter and the three others walking towards the house. The Defendant Chief Peter Marcel was telling off the complainant and the complainant was apologizing to the Defendant Chief Peter Marcel if he done or said anything wrong to forgive him. But the Defendants refused to accept and so the Defendant Chief Peter Marcel went into the kitchen and grabbed hold of the complainant and brought him outside and started the assault. When the complainant fell to the ground the Defendants started kicking the complainant. The complainant's wife was about 20 metres away and saw what was happening and ran to the complainant with a cloth to wipe off the blood from the complainant's face due to the injuries the complainant sustained from the assault.
5. The complainant was taken to the hospital that night and according to the medical reports the complainant suffered cracks to the frontal upper teeth, right/left chest painful when breathing and both left/right lower eye lids swollen and filled with blood.
6. On the 9th February 2010, the Defendant, Chief Peter Marcel was cautioned and interviewed. The Defendant Hapi Numanian was cautioned and interviewed on 10th February 2010 and made admission to the effect that the arguments and assault arose over some personal issues between the complainant and the Defendant Chief Peter Marcel.

Intentional assault is a serious offence. In this case, the seriousness and circumstance of the offending are aggravated by the following factors:

1. The Defendant Peter Marcel is a Chief and a leader in the community.
2. The Defendant Peter Marcel's actions show disappointment to the people and community at large.
3. The 2 Defendants have taken laws into their own hands in order to do justice.
4. They joint together to assault the complainant.

I sentence Defendant Peter Marcel and Hapi Numanian to 11 months imprisonment as a starting point.

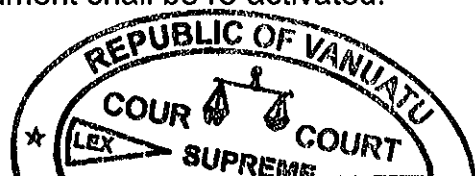
In mitigation, both defendants pleaded guilty at the first opportunity given to them.

They are both first time offenders, they both cooperate with the police. They both express remorse for their offending. They both intend to perform custom reconciliation ceremony but the victim complainant refused any custom reconciliation from them.

I reduce the sentence of Defendant Marcel Peter to 9 months to reflect his guilty plea and other mitigating factors.

I reduce the sentence of Defendant Hapi Numanian to 7 months imprisonment to reflect his guilty plea and other mitigating factors.

I suspend the sentences of both Defendants for a period of 2 years. During such period of suspension, each of them must not re-offend. If any one offends during the suspension period, his terms of imprisonment shall be re-activated.

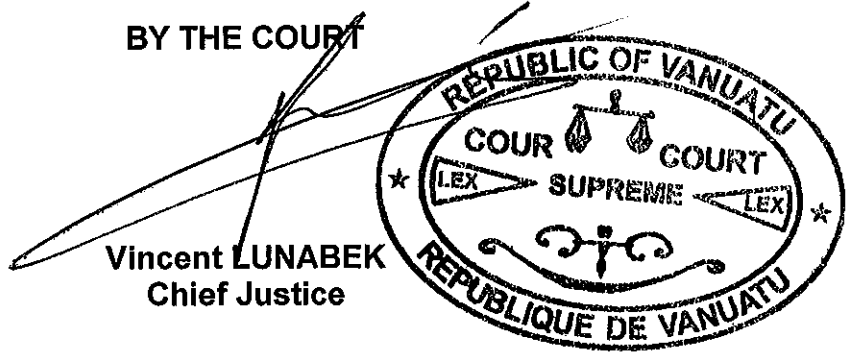


I order that each of the Defendants Peter Marcel and Hapi Numanian to perform 50 hours community work.

Each of you has 14 days to appeal his sentence if he is not satisfied with it.

DATED at Isangel, Tanna this 25th day of August 2011

BY THE COURT



**Vincent LUNABEK
Chief Justice**