

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

VS.

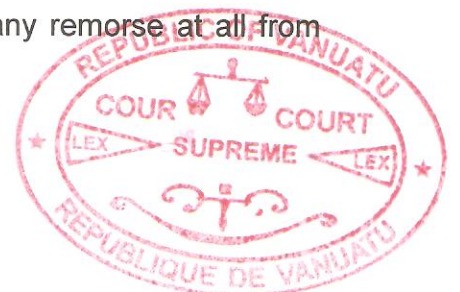
LEICOT ALLAN

Mr Justice Oliver A. Saksak
Mrs Anita Vinabit – Clerk

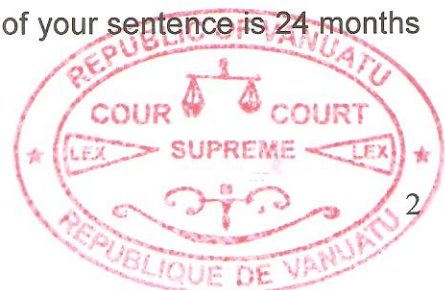
Mr P. Werrick for Public Prosecutor
Miss J. Tari for the Defendant

SENTENCE

1. Leicot Allan White you admitted assaulting your elder brother within the confines of your family home. Your action has resulted in permanent injury to his left hand. You have breached Section 107(c) of the Penal Code Act Cap. 135 and Section 10 of the Family Protection Act No. 8 of 2008. The Section 107(c) offence carries a maximum penalty of 5 years imprisonment. The domestic violence offence carries a maximum fine of VT100.000 and maximum imprisonment of 5 years.
2. There is absolutely no reason at all for this unprovoked attack. Your same day report indicates you consumed 4 shells of kava and half bottle of tusker at the time. But that is quite unusual that the effect of 4 shells of kava would have given rise to such violence.
3. The medical report shows your brother's left hand or wrist was found attached only by some skin. It was completely removed at the hospital leaving your brother completely handicapped in that hand. This shows a very serious offending. There is no sign of any remorse at all from you about this injury.



4. Under those circumstances, the Court must impose penalties which act as a deterrence to yourself and to others because intentional assault of this nature appears to be on the increase. Because you are unemployed, a fine is not an option for you in respect to the domestic violence offence.
5. The Court adopts the sentencing principles in the cases of PP v. Suatu lawafil, Cr. 35/2010 and PP v. Kora William, Cr. 5/2004 and PP v. Kenneth Moli & Ors, Cr. 12/2011. In lawafil and Kora Cases bush knives were used to inflict permanent injuries. And in all 3 cases no compensation orders were imposed.
6. For your case, I consider that the starting point for the Section 107 (c) offence is 3 years imprisonment and for the domestic violence offence the starting point is 2 years imprisonment. I accept the prosecutor's submission that both sentences should run concurrently.
7. The Court therefore convicts you as charged on the basis of your guilty pleas and sentences you as follows:-
 - (a) For Intentional Assault – Section 107 (c) – 3 years imprisonment.
 - (b) For Domestic Violence – Section 10 VPA No. 8/2008 – 2 years imprisonment to be served concurrently with the 3 years imprisonment. In effect the total sentence is 3 years imprisonment.
8. I have had regard to 3 mitigating factors of early guilty plea, cooperation with the police and being first-time offender. I consider that 12 months be deducted from your 3 years imprisonment term. That represents a 1/3 reduction. The balance of your sentence is 24 months or 2 years imprisonment.



9. On information by the Prosecutor, you have been in custody from 30th May 2011. So that you do not lose your parole entitlement, your 2 years sentence commences from 30th May 2011.

10. That is the sentence of the Court. You have a right of appeal within 14 days if you so wish.

DATED at Luganville this 5th day of August 2011.

BY THE COURT


OLIVER A. SAKSAK
Judge

