

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

VS.

MANUEL TANGA

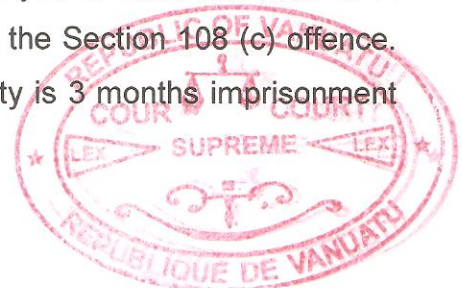
Mr Justice Oliver A. Saksak
Mrs Anita Vinabit – Clerk

Mr P. Wirrick for Public Prosecutor
Mrs M. P. Vire for the Defendant

Date of Submissions Hearing: 3rd August 2011
Date of Sentence: 3rd August 2011

ORAL SENTENCE

1. Manuel Tanga – The Court found you guilty after a trial and returned a verdict of guilty for one charge of Unintentional Harm Causing Death – Sect. 108(c) and or one charge of Unintentional Harm Causing Injuries of temporary nature (Section 108(a)) PCA Cap. 135.
2. This Court considers sentence based on the sentencing principles in PP v. Silas Robert [1997] VUSC 50 and PP v. Kalsong [2011] VUSC 3.
3. To achieve the purpose of a deterrence sentence, the Court is of the view that your offendings warrant that a custodial sentence be imposed. (Jenkinson v. PP [2000] VUCA 5.
4. From the aggravating features of your case which are listed by the Prosecutor, this Court would have given you a custodial term of 2 years & 6 months as the starting point for the Section 108 (c) offence. For the Section 108 (a) offence the penalty is 3 months imprisonment



but this will be served concurrently with the sentence of 2 years 6 months.

5. However in light of your mitigating factors submitted by Mrs Vire, the Court would reduce that sentence to 22 months. 8 months are deducted from the 30 months sentence being in respect of regrets and remorse, being a first-time offender, good cooperation with the police and your good intentions to perform custom ceremony, although declined by victim's relatives.
6. This Court gives special regard to your character and your good intentions at the time of the collisions that despite the difficult circumstances you faced yourself in at the time, you were willing to be the "good Samaritan" and a kindly took your injured passengers to hospital. Then after that you voluntarily and immediately went to the police to report the incident, ahead of the police officers who said they went to the police station immediately after the accident.
7. For this, the Court considers suspending your term of 22 months imprisonment under Section 57 of the Act, on condition that you do not commit any further offence within a period of 2 years from today.
8. There will be no compensation order as the prosecutor has indicated that relatives of the deceased would be taking separate legal action.
9. The Court however imposes a disqualification order under Section 55 of the Road Traffic (Control) Act Cap. 29. This is for a further period of 6 months from today.



10. The Prosecution has asked for costs of VT70.000. Only VT60.000 is allowed. VT60.000 is payable within 2 months from today's date (on or before 4th October 2011) directly to Public Prosecutor's Office.
11. That is the Sentence of the Court.
12. You have a right to appeal within 14 days if you so wish.

DATED at Luganville this 3rd day of August 2011.

BY THE COURT


OLIVER A. SAKSAK

Judge

