

PROSECUTOR – VS – THOMAS JOHN PUBLIC PROSECUTOR – VS – THOMAS JOHN

Coram: Mr. Justice Oliver A. Saksak

Counsel: Mr. Ken Massing for the State
Ms Jane Tari for the Defendant

Date: 26th February 2014

ENTRANCE

SENTENCE

1. Thomas John you are for Sentence today for having pleaded guilty to one charge of intentional assault causing permanent injury.

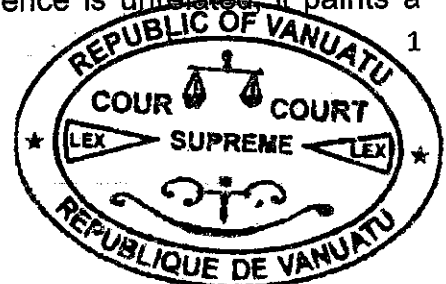
2. You must realize that you committed a serious offence. Under Section 107(c) of the Penal Code Act Cap. 135 this offence carries a maximum penalty of 5 years imprisonment.

3. The facts are simple. At about 10.30 pm on the night of 26th October 2013 you saw a group of boys having a fight. You took your sling-shot and shot randomly into the group of fighting boys. Your shot hit the left eye of the victim who later fell unconscious due to the pain. Your victim sustained permanent injuries to his left eye. You have accepted and conceded to those facts.

4. Your action amounted to taking the law into your own hands. I consider that your offending is serious enough to warrant a custodial sentence. This is to act as –

- (a) A deterrence for both you and others.
- (b) To publicly denounce your behaviour and actions.
- (c) To mark the gravity of the offence; and
- (d) To punish you adequately and appropriately.

5. I have noted from your pre-sentence report that this is your second time in this Court. You first appeared before this Court in June 2012 but for a charge of unlawful possession of cannabis. Although the offence is unrelated, it paints a



bad image of you in your young age. Unless you show some positive signs that all the future holds for you is the Correctional Centre.

6. I note also the efforts of your parents to maintain your education in order to secure your future. You should appreciate those efforts and assist them as much as you possibly can. I note your young age which contributes to your custodial sentence to be suspended with supervision so that you will be assisted to walk on the bright side of life.

7. You are therefore convicted as charged. You are sentenced based on Tari v. Public Prosecutor [2011] VUCA 26 as follows:-

Starting point - 3 years imprisonment. There will be an uplift of 2 years for aggravating features such as use of a sling shot, the injury caused to a vital organ of the victim (the eye) and the pain and suffering by the victim. That brings the Sentence to 5 years imprisonment.

8. In mitigation I allow 1/3 for early guilty plea. That is a reduction of 1 year 8 months. For remorse and customary reconciliation I allow a further reduction of 1 year (12 months). The balance of the Sentence is 2 years imprisonment.

9. For your age and being still in school, your sentence of 2 years imprisonment is hereby suspended for 2 years on supervision and special conditions. This is to assist you to rehabilitate. You must report to the Probation Service within 72 hours. There is a separate order to this effect.

10. That is the Sentence of the Court. You have a right of appeal against this sentence within 14 days if you are not happy with it.

DATED at Luganville this 26th day of February 2014.

BY THE COURT

OLIVER A. SAKSAK

Judge

