

**PUBLIC PROSECUTOR**

**V**

**JOHNNY NALIU**

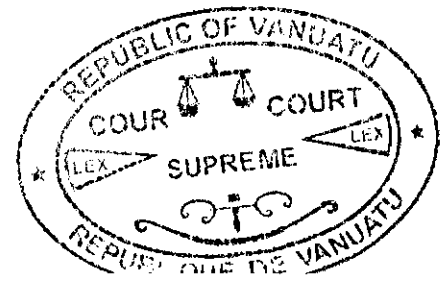
**Sentence:** 31<sup>st</sup> October 2014  
**Before:** Justice Oliver Saksak  
**Appearances:** Losana Matariki for the State  
Jacob Kausiama, Public Solicitor for the Defendant

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**SENTENCE**

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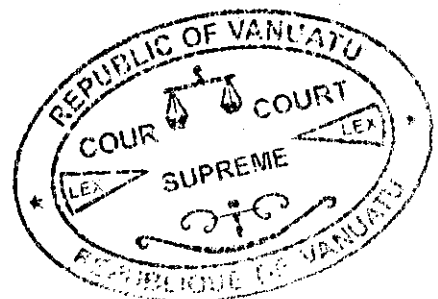
1. Johnny Naliu, you are for sentence today for having pleaded guilty to one count of intentional assault causing death, contrary to section 107(d) of the Penal Code Act [Cap. 135] ("*the Act*").
2. The maximum penalty for this offence is 10 years imprisonment.
3. The incident occurred on 25<sup>th</sup> August 2014. You left your village of Laipukas and went down to Lenakel to find some laplap (baked food) for your mother from your girlfriend. At 8:00 pm you were having a conversation with your girlfriend. Some men, including the deceased approached you and tried to assault you. You ran away and dropped your mobile phone. You got very angry about this and decided to return and look for those men and retaliate. In doing so you picked up two laplap stones as your weapon. You saw the deceased dancing with his friend and you just walked up and hit him on the side of his face with the stone. Your victim fell to the ground as a result. He was unconscious. He was rushed to the hospital but he died on arrival. The Police were informed and they later arrested you and took you in for questioning.



4. In your statement to the police you confirmed the assault with the stone. The only reason you gave for the assault was that you were angry because you had lost your mobile phone in the chase.
5. But your action was uncalled for. You did not even know whether it was the deceased who caused the loss of your mobile phone. You could have simply stopped him and asked him about the phone. Instead, you just attacked him with a stone without letting him know the reason for the attack. Clearly you intended to assault him. And the assault caused the death of your victim. Your action was unprovoked by the deceased. And it was intended and planned. And it was done with a hard object, namely a stone.
6. It is for these aggravating features that the Court considers it must impose a sentence that will serve the following purposes:-
  - a) Mark the seriousness of your offending;
  - b) Mark public condemnation for your action;
  - c) Deter you and others from further actions in future;
  - d) Punish you adequately.

And only a custodial sentence can serve those purposes. The Court therefore convicts you and sentences you to serve a term of imprisonment.

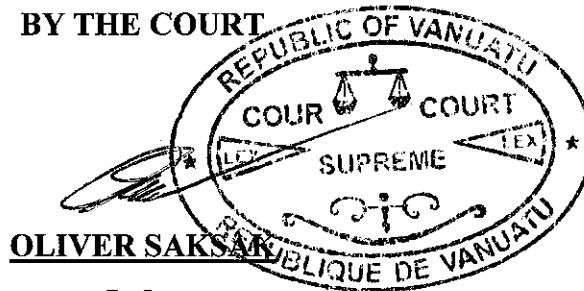
7. Following the cases of Public Prosecutor v. Sheddreck Joseph and Public Prosecutor v. Joseph Malesu, the starting point for you will be 5 years imprisonment. There is an uplift of 2 years for the aggravating features. This increases the term of imprisonment to 7 years.



8. I have seen the submissions and the mitigating factors made by the Public Solicitor on your behalf and accept that you are entitled to some reductions for mitigating factors such as:-
- a) Guilty plea for which 1/3 reduction is allowed, (2 years 4 months),
  - b) remorse, good cooperation with police and clean past with no previous criminal record, and the willingness to pay compensation. 1 year and 8 months are allowed for these. The balance of the sentence is 3 years.
9. You are therefore sentenced to imprisonment for a period of 3 years commencing on 26<sup>th</sup> August 2014, when you were first remanded in custody.
10. That is the sentence of the Court. You have a right to appeal against this sentence within 14 days if you do not agree with it.

**DATED at Port Vila this 31<sup>st</sup> day of October 2014**

**BY THE COURT**



**OLIVER SAKSAK**

**Judge**