

**PUBLIC PROSECUTOR – VS – JACK SIAKA**

**Coram:** *Mr. Justice Oliver A. Saksak*

**Counsel:** *Mrs. Losana Matariki for the Public Prosecutor and State  
Mr. Henzler Vira for the Defendant*

**Date:** *23<sup>rd</sup> May 2014*

**SENTENCE**

1. Jack Siaka you are for sentence today for having pleaded guilty to one count of intentional assault causing permanent injuries contrary to section 107 (c) of the Penal Code Act Cap.135. The maximum penalty for this offence is 5 years imprisonment.
2. On 1<sup>st</sup> December 2013 at Freshwater, Port Vila you intentionally assaulted Bruce Naut the Complainant with a bush knife. The incident happened at the Bus stop near the Au Bon Marche Supermarket when the Complainant was in the company of Lisa Toka and Stephanie Qwea. You drove by in a taxi and upon seeing them you stopped and called out to Lisa Toka. You had an argument with Lisa Toka for a while prior to assaulting her. Bruce Naut tried to assist by coming in the middle of the two of you. He told Lisa Toka to run while he tried to stop you. You then removed the Bush Knife from the taxi and swang it towards Bruce Naut injuring him on the head. He fell to the ground and you chased after Lisa Toka but was stopped by a security Officer. You then drove off while the Complainant was taken to hospital where he received surgery due to the serious head injury he had sustained as a result of being hit by the knife you used. You have accepted those facts.
3. From the accepted facts the following were the aggravating features of your offending-
  - a) There was a breach of the peace.
  - b) There was actual use of violence.
  - c) A dangerous weapon (bush knife) was used.
  - d) The injuries caused were serious and permanent.
4. These features warrant that a custodial Sentence be imposed. Applying **Tari v.Public Prosecutor** [2011] VUCA 26 the Court adopts a starting point of 3 years imprisonment. There is an uplift by 1 year for the aggravating features. In effect your sentence will be 4 years imprisonment.

5. A custodial Sentence is appropriate for the following purposes:-
  - a) To mark the seriousness of your offending.
  - b) To mark public disapproval of your actions
  - c) To deter you and others.
  - d) To punish you adequately and appropriately.
6. You are however entitled to reductions due to your mitigating factors as follows-
  - a) For guilty plea at earliest opportunity there is an allowance of 1/3 reduction. That is a period of 1 year 4 months deducted. The balance is 2 years and 8 months.
  - b) For clean criminal record with no previous convictions, 8 months are deducted. The balance of the Sentence is 2 years imprisonment.
  - c) For being a family man with 5 children at school, there will be a further reduction of 6 months. The balance is now 1 year and 6 months.
7. Defence Counsel submitted that your Sentence of imprisonment should be suspended however that submission is rejected due to the aggravating features that contributed to the seriousness of the offence. From the Pre-Sentence report it is clear you have taken no steps to perform any reconciliation ceremony. This shows a lack of remorse and contrition.
8. You are therefore convicted and sentenced to an end Sentence of 1 year and 6 months imprisonment. I order that the three months you were kept under remand in custody from 3<sup>rd</sup> December 2013 to 28<sup>th</sup> February 2014 be deducted from the 1 year 6 months. That leaves the balance of Sentence at 1 year and 3 months.
9. Your Sentence is to commence with immediate effect.
10. You have a right of appeal against this Sentence within 14 days if you do not agree with it.

**DATED at Port Vila this 23<sup>rd</sup> day of May 2014**

**BY THE COURT.**

