

PUBLIC PROSECUTOR – VS – GILBERT TALIS

Coram: Mr. Justice Oliver A. Saksak
Counsel: Mr. Ken Massing for the State
Mr. Junior Garae for the Defendant
Date: 26th February 2014

SENTENCE

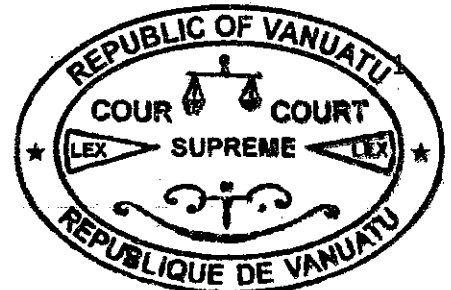
1. **Gilbert Talis** you are for Sentence today for having pleaded guilty to one Count of Intentional Assault Causing permanent injury contrary to Section 107(c) of the Penal Code Act Cap 135.

2. The maximum penalty for this offence is 5 years imprisonment.

3. You admitted to hitting Edmond Roy with a bottle of Golden Eagle on the victim's left eye. It happened on the night of 25th December 2013. Your victim sustained injuries to his left eye and bruises to his face according to his medical report. You have accepted the facts as tendered by the Prosecution.

4. The case of Tari v. Public Prosecutor [2011] VUCA 26 lays down the clear sentencing principle in a case where a bottle was used against a victim causing serious permanent injuries. The Court of Appeal in that case said this:
"Where an assault involves unprovoked violence and causes permanent serious injury, an immediate custodial sentence is appropriate."

5. Applying that principle this Court will impose an immediate custodial sentence on you to:-
- (a) Deter you and others from further committing this offence;
 - (b) Mark the seriousness of your offending;
 - (c) Mark public disapproval of your action; and



(d) Punish you adequately.

6. You are therefore convicted as charged and sentenced to a starting sentence of 3 years imprisonment. There will be an uplift of 1 year for the aggravating features such as (a) use of a bottle (weapon) (b) the permanent injury sustained and (c) the pain and suffering felt by the victim. The total sentence is therefore 4 years imprisonment.

7. In mitigation I accept you are entitled to a 1/3 reduction for early guilty plea. That brings your total sentence of 4 years down by 1 year and 4 months leaving the balance of 2 years and 8 months. I note from your report that you have performed customary reconciliation showing remorse on your part. I note also that you have a clean record and that you cooperated well with the Police during investigations and interview. For these a further reduction of 12 months (1 year) is made to your balance of sentence of 2 years 8 months. The final balance of sentence you will serve at the Correctional Centre is 1 year and 8 months (20 months) imprisonment.

8. Defence Counsel urged the Court to disallow also the 24 days you spent in custody. However, this is declined as you applied for bail and bail was granted. There was therefore a break in the period of detention.

9. Your end Sentence of 1 year and 8 months begins with immediate effect today.

10. That is the Sentence of the Court. You have a right of appeal against this Sentence within 14 days, if you so choose.

DATED at Luganville this 26th day of February 2014.

BY THE COURT


OLIVER A. SAKSAK

Judge

