

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**
(Criminal Jurisdiction)

CRIMINAL CASE NO.16/2402/SC/CRML

PUBLIC PROSECUTOR

V

PIERRE NOAL

Hearing: 9th August and 6th October 2016

Submissions: 18th November 2016

Date of Judgment: 21 November 2016

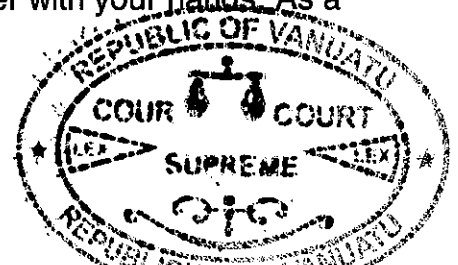
Before: Justice Mary Sey

Appearances: Mr. Damien Boe for the Public Prosecutor
Mr. Andrew Bal for the Accused

SENTENCE

INTRODUCTION

1. The accused was initially charged with one count of intentional assault causing temporary injury contrary to section 107 (a) of the Penal Code Cap 135 and one count of threats to kill contrary to section 115 of the Penal Code Cap 135. The accused pleaded guilty to the count of intentional assault and not guilty to the count of threats to kill. The matter was then adjourned for trial. However, on 6th October 2016, the Public Prosecutor entered a nolle prosequi by informing the Court that he intends that the proceeding in respect of the count of threats to kill shall not continue. The accused was accordingly discharged in respect of that count and the matter was adjourned to 21 November 2016 for sentencing in respect of count 1.
2. **Mr. Pierre Noal**, you were convicted on 9 August 2016, upon your own guilty plea to the charge of intentional assault and you appear today for sentence. No dispute is taken with the summary of the facts presented by the prosecutor. On 26 April 2015, you assaulted your wife with an axe and a piece of wood from a table. You also kicked her with your leg and punched her with your hands. As a



result, she sustained injuries on her body and an open cut on her forehead, each of her arms, hands and legs. Her eyes were also swollen. She was admitted at the Vila Central Hospital where she received intensive care and theatre operations. Whilst assaulting her you told her that you would kill her and then cook her body and eat it. You were arrested and taken to the police station to be cautioned and interviewed but you elected to speak in Court.

The Law

3. INTENTIONAL ASSAULT

107. No person shall commit intentional assault on the body of another person.

Penalty:

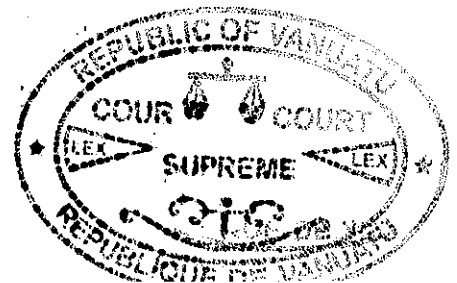
(a) if no physical damage is caused, imprisonment for 3 months;

(b) **if damage of a temporary nature is caused, imprisonment for 1 year;**

(c) if damage of a permanent nature is caused, imprisonment for 5 years;

(d) if the damage caused results in death, although the offender did not intend to cause such death, imprisonment for 10 years.

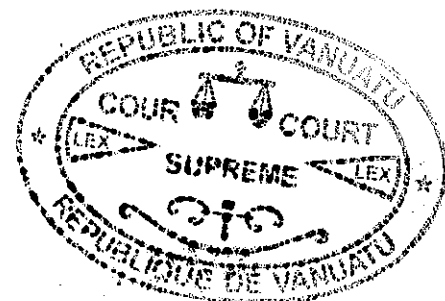
4. In arriving at your sentence, I have been greatly assisted by the prosecution submissions and also by the pre-sentence report. It is pertinent to note that defence counsel failed to comply with the Court's Order to file sentencing submissions.
5. I note from the detailed pre-sentence report that you are 34 years old and you are from Enima village on the island of Tanna. It is reported that you are the only child in the family and you were brought up by your adoptive father, Mr Jackson Noal, a Police Superintendent. You are married and you have two daughters aged 6 and 13. When asked about your educational background, you stated that you began your primary education from grades one to three at the Saint Jean D'Arc then you proceeded to Lounatom (Tanna) Mission School where you completed grades four to six. Subsequently you then attended the Louanatom Technical School but you grew weary of continuing with your



education and you had to quit. You told the writer that you later moved to Port Vila and was employed by your adoptive father as a driver and that after a few years he presented you with a bus to start your own transport business and currently you now own two buses. You stated to the probation officer that you have a status in the community where you play the role of a Chiefs police or security and coordinate programs during festive events like Christmas and New Year's, Children's Day as well as other important events in the community.

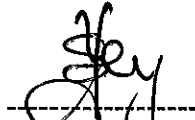
6. The fundamental requirement is that the sentence imposed on you should first and foremost punish you for your offending and it must mark the seriousness of the offence and also act as a deterrent to other persons minded to engage in a similar activity. I have taken into consideration the fact that you pleaded guilty at the first available opportunity. This early guilty plea is a sign of remorse and contrition and it would allow the Court to deduct 1/3 of any sentence to be imposed on you. See *PP v Gideon* [2002] VUCA 7. Nonetheless, it is necessary for the Court to hold you accountable for your vile and shameful actions towards your wife.
7. According to the Correctional Services Department, you are a second time offender and you are now currently serving a sentence of two years imprisonment on a charge of kidnapping and a sentence of nine months' imprisonment on a charge of unlawful assembly.
8. After taking all matters into account including the aggravating features of your offending, in particular the violent repeated assaults with weapons, I consider an appropriate starting point of nine months' imprisonment which is reduced by one third for your guilty plea. This brings your end sentence to six months' imprisonment which is deemed to have commenced on 9th August 2016 when you entered your guilty plea.

You have 14 days to appeal against this sentence if you do not agree with it.



DATED at Port Vila, this 21st day of November, 2016.

BY THE COURT



M. M. SEY
Judge

