

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

**Criminal
Case No. 17/3060 SC/CRML**

PUBLIC PROSECUTOR

V

BILL PHILLIP

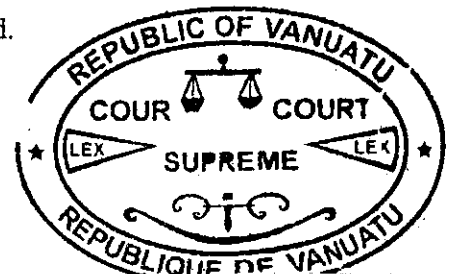
Date of Sentence: 7th day of December, 2017 at 2:00 PM

Before: David Chetwynd

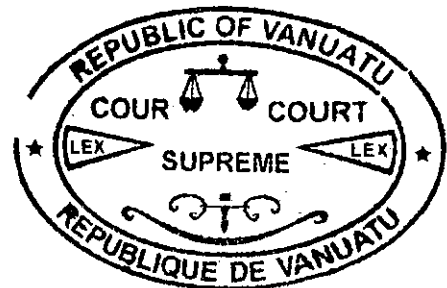
*Counsel: Ms Betina Ngwele for Public Prosecutor
Ms Kylie Bakeo for Defendant*

SENTENCE

1. The defendant Bill Philip (aka Bill Philip Mawei) is 21 years old. On the 16th September this year he went to a music night at a school. He was drunk and acted in an objectional manner. Other boys there were very unhappy with his behavior and assaulted him.
2. The next day, 17th September 2017, the defendant and his brother saw the victim driving a vehicle. The brother stopped the victim and the victim was asked why he had assaulted the defendant. He replied that he had actually intervened to stop the assault. As he was talking, and without any warning he was assaulted. The defendant struck the victim with his left fist. The victim suffered a broken jaw and damaged eardrums. He has become permanently deaf in his left ear.
3. For offences such as this committed after 24th February 2017 the maximum penalty is 10 years. The permanent injury or damage caused in the fracture of the jaw and the permanent deafness and this makes this particulars offending very serious. Witnesses say they saw the defendant holding a stone in his right hand but admits only striking the victim with his left hand. He will be sentence on the basis no weapon was actually used.



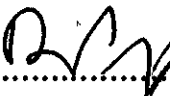
4. This was a cowardly and vicious attack on the victim. It came without any warning and is often referred to as a sucker punch. The starting point is 4 years imprisonment.
5. There is very little to mitigate the offending. All that can be said is that the defendant has no previous convictions I will give the defendant credit for his previous good character and reduce the sentence by 6 months.
6. The defendant has entered a plea of guilty at the earliest opportunity and is entitled to have his sentence reduced by 1/3. That leaves a sentence of 28 months.
7. I am required to consider whether the defendant can be kept in the community. This type of cowardly vicious attack on an unsuspecting victim must be punished. Whilst there is a requirement for the Court to deter such offences by imposing severe sentences I must also consider the defendants particular circumstances. He is a young man and a lengthy sentence of imprisonment may be counterproductive. In the circumstances of this case, to show that this kind of behavior will not be tolerated but at the same time allow the defendant to get on with his life, it is appropriate to partially suspend the sentence.
8. The sentence of 28 months will be suspended as to 20 months, for a period of 2 years. This means the defendant will go to prison for 8 months. If he does not commit any other offences in the 24 months from today he will not be required to serve any further time. If he commits another offence within 2 years he will be required to serve the remainder of his sentence and any other sentence imposed for the new offence.
9. I note that the defendant is willing to participate in a custom reconciliation ceremony. I would suggest that on his release he asks the Probation Officer to facilitate such a process. I will order that the defendant is supervised for a period of twelve months after his release.



10. The defendant is entitled to appeal this sentence. He has 14 days in which to file such an appeal. Time will start to run from the time the defendant receives a copy of these written reasons.

DATED at Port Vila this 13th day of December, 2017.

BY THE COURT


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David Chetwyn
Judge

