

PUBLIC PROSECUTOR

V

GREG KALKAUA

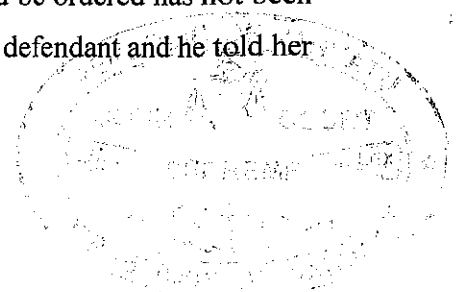
Date of Sentence: 28th day of March, 2018 at 9:00 AM

Before: David Chetwynd

Counsel: Simcha Blessing for Public Prosecutor
Gregory Takau for Defendant

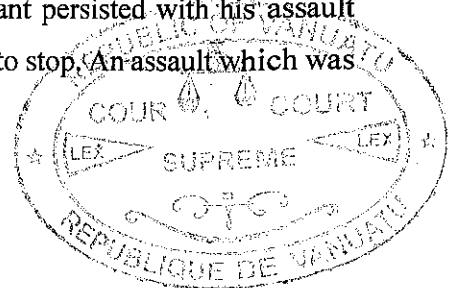
SENTENCE

1. The defendant Greg Kalkaua was originally charged with 4 offences. They were making threats to kill, intentional assault causing temporary injury, carrying a weapon at night and arson. The defendant accepted his guilt in respect to the first three charges but entered a not guilty plea to the arson. Following a short trial he was acquitted of that offence. The defendant is therefore being sentenced only in respect of the charges relating to the threats to kill, the intentional assault and the unlawful carrying of a weapon at night.
2. The maximum sentence for the offence of making threats to kill is 15 years imprisonment. For intentional assault causing temporary harm the maximum sentence is 5 years. For unlawful carrying a weapon or house breaking implement at night the maximum sentence is 1 year.
3. The defendant does not dispute the facts. The complainant, his de-facto partner, went to the Magistrate's Court seeking a protection order. This was after enduring domestic abuse from the defendant for some time. It is said that, somewhat extraordinarily, a Magistrate refused the order and said the couple must get back together. On what authority that could be ordered has not been explained. The complainant returned to live with the defendant and he told her



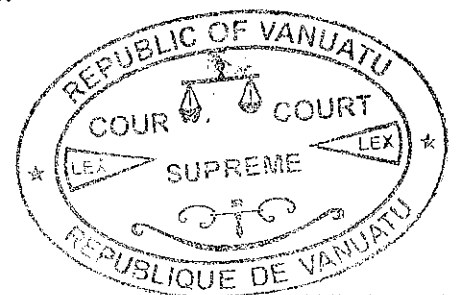
that if she left again he would kill her. Those are the facts in relation to the charge of threats to kill.

4. At about the same time this occurred the defendant is said to have harassed three young girls. He tried to coerce one of the girls to go into the bush with him. He had an axe with him and this alarmed all these. They locked themselves in their house until rescued by a neighbour. This is the basis for the unlawful carrying of a weapon charge.
5. On 24th June 2017 the complainant partner again left the defendant. The next day the defendant went to where she was working. He was playing loud music and was generally being obnoxious to all and sundry. He then went up to the complainant and started punching her in the face. The blows were inflicted with extreme force and there were many of them. The complainant suffered multiple bruising over her head, neck and body. The complainant's mother tried to intervene and the defendant threatened to kill her with a bottle. The complainant then tried to cover her mother's head and the defendant continued his assault and made threats that he would break the bottle over their heads. Some tourists intervened and shouted at him to stop. He did but did not leave the Havanah Beach and Boat Club. He continued to be abusive and was even abusive towards his own father when he arrived on the scene.
6. The starting point for the threats to kill is 2 years imprisonment. The offence is aggravated because this was not something said in anger or on the spur of the moment, the threats were intended to intimidate the complainant and to frighten her into not making any more applications to the Court and to deter her from leaving. The defendant has an admitted history of beating his de-facto wife and making threats. She believed him when he said he would kill her if she left him. The proper sentence is 2 ½ years imprisonment to take account of these aggravating factors.
7. So far as the assault is concerned, this was a vicious prolonged savage beating meted out by a man who used violence to control his partner. There were threats to use a bottle as a weapon. The defendant persisted with his assault even though others intervened to try and get him to stop. An assault which was



less savage and of shorter duration would attract a sentence of 2 years imprisonment. This assault was aggravated by its duration, the threats to use a weapon and the defendant's persistence in the face of intervention by others. He will be sentenced to 2 ½ years imprisonment.

8. This leaves the unlawful possession of a weapon at night. In the grand scene of things this was a minor matter and the defendant is sentenced to 1 month imprisonment in respect of it.
9. All the sentences will be served concurrently although it could be said they should be served as consecutive sentences. There was a break in time and the offences were seemingly committed sequentially in order to reinforce the idea of the defendant's willingness to resort to physical abuse if his partner did not do as she was told.
10. Although it is said in statements made to the Police that the defendant has previous convictions there is no evidence to confirm this. The defendant is therefore entitled to be treated as a person with no previous convictions. He is entitled to some credit for that and I will reduce his sentence by 3 months.
11. Given the defendant's acceptance of his long history of domestic abuse I cannot accept that he is someone of blameless good character.
12. He does say he is full of remorse and has arranged for a custom reconciliation ceremony. I will reduce his sentences by a further 4 months.
13. The defendant has spent time in custody prior to trial, conviction and sentence and will be given credit for the time spent in custody. So far as I can ascertain he spent 25 days in custody and rounded up this would equate to 2 months' time served. His sentences will therefore be reduced by a further 2 months.
14. The final sentence is one of 21 months in respect of both the threats to kill and the assault. As the defendant entered guilty pleas at a very early stage he is entitled to a full 1/3rd reduction amounting to 7 months. That leaves the defendant with a total sentence of 14 months to serve.



15. I am required to consider the circumstances of the case namely the nature of the offence and the character of the offender, and decide whether the sentences can be suspended. Given the vicious and prolonged assault, the history of domestic abuse and the grave possibility of repetition I do not believe the sentences should be suspended in part or in whole. The defendant will serve 14 months imprisonment immediately.
16. The defendant is, if he is dissatisfied with his sentences, entitled to appeal. Time for any appeal will start to run from the date that the defendant's counsel receives a copy of these written reasons.

DATED at Port Vila this 29th day of March, 2018.

BY THE COURT

