

PUBLIC PROSECUTOR

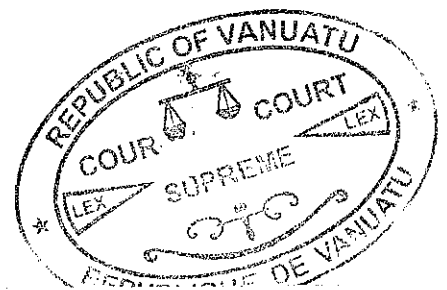
V

PETER JOHN

Date of Plea: 4th April 2018
Date of Sentence: 28th day of May, 2018 at 8:30 AM
Before: Justice Oliver A. Saksak
Counsel: Laura Lunabek for the Public Prosecutor
Linda Bakokoto for the Defendant

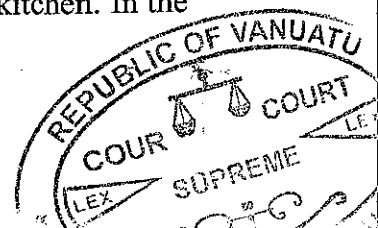
SENTENCE

1. Peter John, you are for Sentence today for having pleaded guilty to one charge of intentional assault contrary to section 107(b)(Count 1), one charge of threats to kill contrary to section 115 (Count 2), and to one charge of unlawful entry contrary to section 143(1) (Count 3) of the Penal Code Act [Cap 135] respectively.
2. The charge in Count 1 carries a maximum penalty of 1 year imprisonment. The charge in Count 2 is serious and carries a maximum penalty of 15 years imprisonment. And the charge in count 3 is the most serious as it carries a maximum penalty of 20 years imprisonment.
3. The facts are quite simple. On 15 December 2013 at Taloa Village Nguna Island at about 16.00 hours, you were drunk. You entered into the bush kitchen of the complainant Lodhy Tasaruru Amos and assaulted her on the left side of her head causing her temporary injuries. You then threatened to kill her dead because you did not want her to communicate with her son Kalman. You then approached her to assault her the second time but she ran



out of the house. You punched the kitchen door and threatened the complainant's husband as well.

4. On 16th December 2013 the victim was seen by a doctor whose report shows she was hit on the left side of her head, had a slightly swollen and painful left ear and headaches radiating to the neck.
5. You admitted your actions to the police during an interview with them. The only explanation you gave was that you were drunk.
6. There is no pre-sentence report filed by the Probation Service although it was so ordered on 4th April. And there is no sentencing submission by defence counsel to assist me. I am only assisted by the submissions filed by the Prosecution on 14 May 2018.
7. I take note of the cases referred to by the Prosecution. Each case differs on its fact and circumstances but the principles of sentencing are clear that where offendings are serious and culpability of offenders are clear and inexcusable, appropriate penalties must be imposed to serve the following purposes:
 - (a) Mark the seriousness of the offence,
 - (b) Mark the Court's condemnation of the offender's actions,
 - (c) Mark a deterrence for the offender and others,
 - (d) Protect the society, the weak and the vulnerable,
 - (e) Provide retribution, and
 - (f) Encourage reform and rehabilitation.
8. I do not see any good excuse or at all for your actions. Your victim was a 55 year old woman in 2013. She would be 60 year old now. You were 38 years old at the time. There is a 17 years difference between you and her. You approached her in her kitchen and accused her for speaking with her son and subsequently you hit her on her head and threatened to kill her dead. You had absolutely no reason for doing so.
9. I treat the unlawful entry charge as the lead offence because the assault and the threats were made after you had entered the complainant's kitchen. In the



Vanuatu context, the kitchen although separate from the main sleeping house, is a dwelling house. That is where the family cooks, have their meals and sit during the day for other activities.

10. I therefore convict you and sentence you as follows:-

- (a) For Count 1 – Unlawful entry, a starting Sentence of 4 years imprisonment.
- (b) For Count 2 – Intentional Assault, a starting Sentence of 6 months imprisonment concurrent with the sentence in Count 1.
- (c) For Count 3 – Threats to Kill, a starting sentence of 2 years imprisonment concurrent with the sentences for Counts 1 and 2.

11. Altogether you are sentenced to a concurrent sentence of 4 years imprisonment.

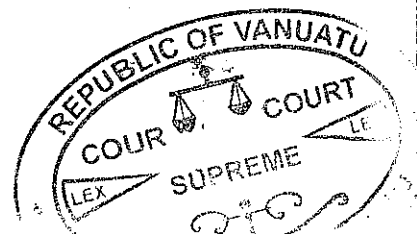
12. In mitigation I consider that your sentences should be reduced for –

- (a) Being a first time offender with clean past record;
- (b) Good cooperation with the Police at investigation;
- (c) Early admission to the Police at interview; and
- (d) Delay in prosecuting the case.

For these together, I reduce your 4 year sentence by 1 year (12 months) leaving the balance at 3 years.

13. Finally for your early guilty plea you are entitled to 1/3 reduction which means 12 months are deducted from the 3 years remaining leaving the end sentence at exactly 2 years imprisonment.

14. I consider that I should suspend your end sentence of 2 years imprisonment for a period of 2 years from the date hereof. This suspension is made under section 57 of the Act. This means that you do not have to go to prison today. But you must go back to your village and must behave yourself by not committing these offences again or any other offences in the next 2 years, for

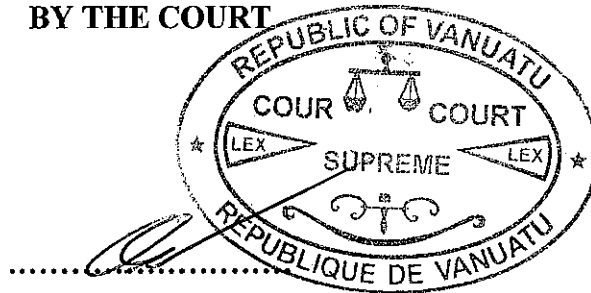


which are charged and convicted, If you do, you will go to prison to serve your 2 years imprisonment.

15. That is the Sentence of the Court. You have a right of appeal against this sentence if you do not agree with it, and you should do so within 14 days.

DATED at Port Vila this 28th day of May, 2018.

BY THE COURT



Oliver Saksak

Judge