

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

**Criminal  
Case No. 20/752 SC/CRML**

**BETWEEN: Public Prosecutor**

**AND: Gibson Lui**  
*Defendant*

**Before: Justice Aru**  
**In Attendance: Mr. K. Massing for the Public Prosecutor**  
**Mr. H. Vira for the Defendant**

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**SENTENCE**

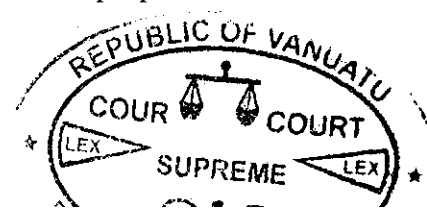
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Introduction

1. Mr Gibson Lui you are in Court today to receive your sentence on one count of causing death by reckless driving and one count of driving under the influence of alcohol. Causing death by reckless driving is punishable by a fine not exceeding VT500, 000 or a term of imprisonment not exceeding 5 years or to both. Driving under the influence of alcohol carries a lesser penalty and is punishable by a fine not exceeding VT100, 000 or a term of imprisonment not exceeding 1 year or to both.
2. You pleaded guilty to both charges and I therefore convict you accordingly.

The Facts

3. The facts are not disputed. And these are summarised in the prosecution brief of facts. On 6 November 2019, there was a car accident on the stretch of road around the Klems Hill area. At that time you were driving a black Ford Ranger vehicle with the registration No 4VE 830 which went off the road leading to one loss of life and two passengers with serious injuries to their bodies.
4. Before the accident occurred, you were at a Christmas party with staff of the Forestry Department and the party was organised at Gideons Landing at North Efate. During the party, you consumed some kava and alcohol. At the end of the Christmas party before you left, you were told that you were too drunk to drive. You insisted that you were fine and left the party in the Ford Ranger with three others including the deceased. As you were driving very fast, you took the lead ahead of the others who were also at the party with you and were following you back to Vila. When they approached the klems hill area before the Tamate river, they saw your vehicle lying on its side with people



crowding around it. They stopped and saw you crawling out of the vehicle with two others. The deceased died on the spot and was also pulled out from under the vehicle.

5. There was no other vehicle involved in the accident. Prosecution witnesses at the scene before the crash saw you approaching at high speed and as a result you lost control of the vehicle and it rolled over a number of times before landing on its side. The deceased suffered serious head injuries as a result and died on the spot.
6. When you were arrested and interviewed by the Police, you admitted that you were driving under the influence of alcohol, which led to the accident.

#### Aggravating factors

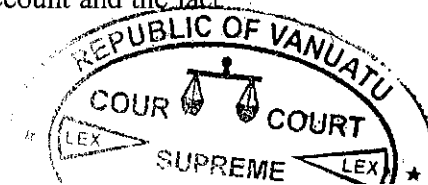
7. The aggravating factors are clearly:-
  - excessive speed and
  - driving under the influence of alcohol.

#### Starting point

8. In assessing the starting point of your sentence, the offending in this case is not at the high end of the scale for this type of offending. It was not intentional and your actions were not deliberate to harm the deceased or anybody. The alcohol contributed to your poor judgment in controlling the vehicle leading to the accident. The lead offence is causing death by reckless driving. I set an overall starting point of 3 years imprisonment.

#### Personal factors

9. I am thankful to your Probation officer for providing a Pre-sentence Report, which sets out your personal factors. You are 32 years of age and come from a background of mixed parentage. Your father is from Santo and mother from Mele village on Efate. You are the youngest of their children. You are a member of the Presbyterian Church and you started primary and secondary education at Central School in Vila and did year 12 at Tebakor Secondary school.
10. Currently you are residing with your parents at Bladinieres estates with your three children. You are the sole breadwinner as your father has now retired from service as a member of the Vanuatu Mobile Force. You intend to return to Santo to earn income driving your family's public transport and to return at some stage to do seasonal work under the RSE scheme. You told your probation officer that you regret your actions and are remorseful. You performed a custom reconciliation ceremony at Mele village to the deceased's family and relatives.
11. Counsel on your behalf submits that this is your first offending and you spent 20 days on remand before being released on bail. Taking this factors into account and the fact



that you have shown remorse and performed a custom reconciliation 12 months is deducted from your sentence.

Guilty plea

12. You admitted the offending to the Police and entered a guilty on your plea day. You pleaded guilty at the first available opportunity therefore you are entitled to the full one-third discount on your sentence.

End sentence

13. Your end sentence is 15 months imprisonment for count 1 and 3 months imprisonment for count 2 to be served concurrently.

Suspension

14. Counsel on your behalf submits that the sentence be suspended. Considering the circumstances and the nature of the crime, this is your first offending. You are not a habitual offender. You are the family breadwinner with a good educational background. Your family and chief continue to support you.
15. The sentence will be suspended for a period of two years and in addition, you will perform 120 hours community work. You are also disqualified from driving for a period of 6 months.
16. You have 14 days to appeal if you are not happy with the decision.

DATED at Port Vila this 16 day of June, 2020

BY THE COURT

