

**PUBLIC PROSECUTOR**

**v**

**TARI MALON HORY**  
*Defendant*

*Date of Plea:* 4<sup>th</sup> March 2021  
*Date of Sentence:* 26<sup>th</sup> July 2021  
*Before:* Justice Oliver Saksak  
*Counsel:* Ms Michelline Tasso for Public Prosecutor  
Mr Andrew Bal for Defendant

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**SENTENCE**

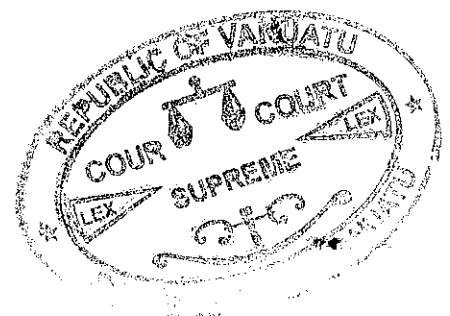
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**Introduction**

1. The defendant pleaded guilty to one charge of intentional assault causing injuries of a temporary nature contrary to section 107(b) of the Penal Code Act [ CAP 135]. He is for sentence today.
2. He was tried in relation to two other charges of intentional assault ( section 107 (b)) and threats to kill ( section 115) but the Court found him not guilty of these charges and acquitted him accordingly.
3. The maximum penalty for an offence under section 107 (b) is 1 year ( 12 months) imprisonment.

**Facts**

4. In the night of 31<sup>st</sup> December 2020 and the early hours of 1<sup>st</sup> January 2021 the defendant and complainant spent the New Year's Eve together at a motel next to the Hibiscus Motel at the Stade Area, Port Vila. They had beer and wine together at the motel. Arguments flared up between the two and the party turned sour. The defendant assaulted the complainant on her right eye and to her head.
5. A medical report issued on 1<sup>st</sup> January 2021 shows-
  - A scalp headache plus
  - On eyelid laceration with no active bleeding.



The opinion of the medical examiner was that the complainant was physically assaulted with minimal injuries with no underlying fractures.


### **Starting Point**

6. The only explanation by the defendant was that the complainant had left him after being so drunk with wine and gone dancing with the other woman of the motel. However this was no mitigating circumstances.
7. The defendant and complainant had a relationship of 4 years, therefore there was a breach of trust. Further as a female under some influence of liquor she was vulnerable and deserved protection, rather than an abuse physically. The defendant has a defacto wife living at his home at Bladiniere, yet he had gone out of his way to maintain this relation with the complainant.
8. Taking all those factors together, I set the starting sentence at 12 months imprisonment.

### **Mitigation**

9. In mitigation I accept he is entitled to 1/3 reduction for his early guilty plea. His sentence is reduced by 4 months to 8 months imprisonment.
10. He appears not to be remorseful as no reconciliation ceremony has been performed. But the defendant is employed in a government department and with no previous criminal record. He is entitled to a further reduction of 1 month.
11. The defendant's end sentence is 7 months imprisonment.
12. This sentence is suspended for a period of 2 years on good behaviour. The defendant is warned to keep away from the complainant and to have nothing more to do with her indirectly or directly. If he reoffends within the period of 2 years by committing the same offence or any other criminal offences for which he would be charged and convicted, he will go to prison for 7 months without further notice.
13. He has a right of appeal against this sentence within 14 days if he disagrees with it.

**DATED at Port Vila this 26<sup>th</sup> day of July 2021  
BY THE COURT**

  
Oliver.A.Saksak  
Judge

