

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

Criminal
Case No. 21/1208 SC/CRML

PUBLIC PROSECUTOR

v

ERNEST JOSEPH

Date: 28 July 2021
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr K. Massing
Defendant – Mrs P. Malites

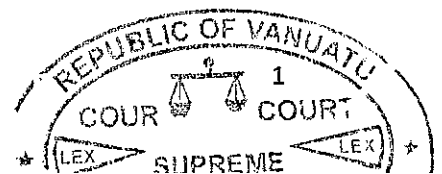
SENTENCE

A. Introduction

1. Mr Joseph pleaded guilty to one charge of premeditated intentional homicide. He accepted the summary of facts and was accordingly convicted on his own plea and the admitted facts.

B. Facts

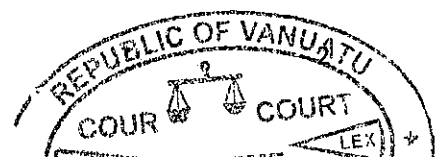
2. At around 1.30pm on 13 March 2021 at Tassiriki area in Port Vila, Mr Joseph planned and intentionally stabbed the deceased 54 year old May Stalin Wotlenaq with a small knife, which resulted in her death.
3. Mr Joseph and the deceased had had an extra-marital relationship since 2010. She had not answered Mr Joseph's calls for a couple of days.
4. On 13 March 2021, Mr Joseph went looking for the deceased at her relatives' house at Erakor then to look for her in town.
5. The deceased texted him and they arranged to meet in town. They walked up to Independence Park and then at around 1.30pm, down a gravel road into Tassiriki area. They argued as Mr Joseph thought that she was having a relationship with another man. Mr Joseph took a knife from his bag and then stabbed the deceased twice in the chest. She managed to get away from him, running down the road.



6. Ms Stalin approached a security guard who was guarding a house, calling out for help. When the security guard went to her, he saw that she was holding onto her chest and he could see blood on her chest. She was crying. An unknown man came to help her with Ms Stalin. Between them they held Ms Stalin and called the Police and Pro-Medical.
7. The security guard asked Ms Stalin what was wrong with her. She replied that her husband had stabbed her with a small knife. Those were her last words then she died.
8. The Police arrived first and secured the area. Pro-Medical arrived later. They confirmed that Ms Stalin was dead.
9. Mr Joseph went back up the road to the main road and stopped a bus. On his return to Erakor, he went to a relative of the deceased, showed her the knife and said he had killed apu May with the knife because she had cheated on him. He also took out the deceased's black mobile phone and used a stone to smash the screen in front of the relative. He said he was so angry because he had bought that phone for her. He also gave the relative the deceased's pink panty and black Crocs shoes. He told her to give these items to the Police if they came for him.
10. Mr Joseph also told the relative that he intended to kill the deceased because she had cheated on him. He told her that if he went to prison and she was still alive, that on his release from prison, that he would make sure to kill her.
11. The autopsy confirmed that Ms Stalin died as a result of excessive blood loss due to severance of her pulmonary vessels caused by the stab wound to her chest.
12. Mr Joseph made full admissions to the Police the next day.

C. Sentence Start Point and Personal Factors

13. The sentence start point is assessed having regard to the maximum sentence available, and the mitigating and aggravating factors of the offending.
14. The maximum sentence provided is life imprisonment.
15. There are no mitigating aspects to this offending.
16. The aggravating aspects include the following.
 - The unprovoked nature of attack;
 - The use of a weapon against an unarmed female;
 - The blows struck to the chest, severing the victim's pulmonary vessels;
 - Mr Joseph targeted a vulnerable part of the body which can have life threatening consequences. In this case, it did, and the deceased tragically died within a short time of the stabbing;



- The open admissions by Mr Joseph that he meant to kill the deceased and if she survived, that he would ensure to kill her on his release from prison; and
 - This involved the killing of an intimate partner thus a breach of trust.
17. The factors set out above require a sentence start point of 25 years imprisonment. This is to mark the gravity of the offence, the need for deterrence, protection of society and punishment.
 18. Mr Joseph pleaded guilty at the first opportunity. Considering the severity of the injuries caused to the deceased and Mr Joseph's admissions that he intended to kill Ms Stalin, I do not consider that the plea reflects true remorse. For his prompt plea, I reduce the sentence start point by 25% (6 years).
 19. Mr Joseph is 53 years old. He is unemployed. He lives at Erakor village on Efate. He has no previous convictions. I deduct 1 year from the sentence start point for Mr Joseph's personal factors.

D. End Sentence

20. Taking all of those matters into account, the end sentence that must be imposed is one of 18 years imprisonment.
21. The sentence is to commence from 13 March 2021 when Mr Joseph was taken into custody and then remanded.
22. An immediate custodial sentence must be imposed. The offending is too serious to do otherwise.
23. Mr Joseph has 14 days to appeal.

**DATED at Port Vila this 28th day of July 2021
BY THE COURT**

VM Trief
Justice Viran Molisa Trief

