

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

Criminal
Case No. 20/2952 SC/CRML

BETWEEN: Public Prosecutor

AND: Willie Sepa
Defendant

Date: 6 April 2021
By: Justice G.A. Andrée Wiltens
Counsel: Mr C. Shem for Public Prosecutor
Ms L. Bakokoto for the Defendant

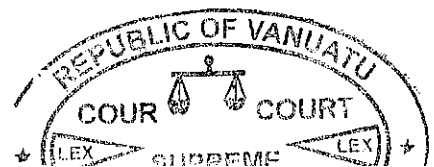
Sentence

A. Introduction

1. Mr Sepa pleaded guilty to attempted intentional homicide. He accepted as true and correct the summary of facts, and was accordingly convicted as charged.

B. Facts

2. On 13 July 2020, Mr Sepa was staying in the Joint Courts area of Port Vila with his father-in-law. The complainant, Mr Dimitri Kelala also stayed at that house. That day, Mr Sepa took a knife, approached Mr Kelala and stabbed him.
3. Mr Kelala ran into the master bedroom to escape from the attack. Mr Sepa chased after Mr Kelala, and in the process broke down the doors to the kitchen, the master bedroom and finally the bathroom door, each of which Mr Kelala had locked in his efforts to escape.
4. In the bathroom, Mr Sepa again stabbed Mr Kelala with the knife. Mr Kelala then used his jacket as protection while trying to remove the knife from Mr Sepa before fleeing. In the process of attempting to remove the knife from Mr Sepa, Mr Kelala's hand was injured.



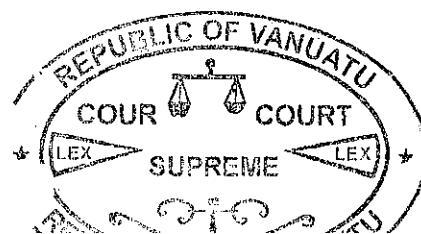
5. Mr Sepa chased Mr Kelala, who was futilely calling out for help, out to the main road where he attempted to again stab Mr Kelala. At that point a passing Police Officer intervened. The police officer told Mr Sepa to stop, but Mr Sepa replied that the police officer should let him stab the complainant to death.
6. The police officer calmed Mr Sepa down and took the knife from him. He then assisted in the arrest of Mr Sepa. Mr Sepa was subsequently interviewed and admitted that he had intended to kill the complainant.
7. Mr Kelala was admitted to the Port Vila Central Hospital for several days prior to being discharged. A medical report indicates there were "multiple sharp deep wounds over his body", which required surgery to stop the bleeding. There was additionally stated to be "major blood loss."

C. Sentence Start Point

8. The sentence start point is to be assessed by having regard to the maximum sentence available for this offending, and factoring in both the aggravating and mitigating aspects of the offending.
9. The maximum sentence for attempted intentional homicide is life imprisonment.
10. There are aggravating factors to this offending, which include:
 - The repeated use of the knife; and
 - The persistence and determination exhibited in chasing the complainant from room to room and finally out onto the road in his attempt to again stab the complainant and kill him.
11. There are no mitigating aspects of the offending.
12. I adopt a start point of 10 years imprisonment for the attempted taking of a life. I note that both counsel have relied on the precedent authority of *Namri v PP* [2018] VUCA 52, but the circumstances of this present case are more serious and warrant a higher sentence start point.

D. Personal Factors

13. Mr Sepa pleaded guilty at the first available opportunity. That indicates that he has accepted his wrong-doing. It may also indicate remorse. It has saved Court time and expense. I reduce the sentence start point by 25% due to Mr Sepa's guilty plea.
14. Mr Sepa is now 24 years old, still single.
15. He has no previous convictions.
16. Mr Sepa has not taken part in any custom reconciliation ceremony. He maintained that he was willing to attend such a ceremony but that Mr Kelala had declined his offer. The PSR writer confirmed that to be correct.

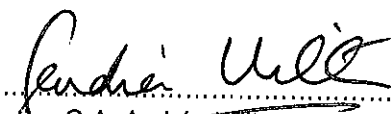


17. Mr Sepa's explanation for this offending is not mitigation. He alleges that Mr Kelala has previously threatened to kill him and accused him of having an affair with Mr Kelala's wife. There is no support for these contentions. Further, Mr Sepa suspected that Mr Kelala was practicing sorcery against him. Again there is no supporting evidence for this allegation. Lastly, Mr Sepa complains of having numerous nervous breakdowns, despite hospital tests showing no adverse symptoms. He blames Mr Kelala for his breakdowns.
18. In an alternative explanation to the PSR writer, Mr Sepa claimed to be affected by the consumption of cannabis at the time of the offending. He explained the offending would not have occurred but for that. Whether true or not, being under the influence of cannabis is not mitigation.
19. Given the various explanations provided, it is difficult to place any weight on Mr Sepa's claimed remorse.
20. For these personal factors, I further reduce Mr Sepa's sentence start point by 3 months.

E. Sentence

21. Mr Sepa is sentenced to 7 years 3 months imprisonment. He has been remanded in custody since the time of his arrest. Accordingly it is appropriate to back-date the start date of the sentence to 13 July 2020.
22. The end sentence will not be suspended. This offending is too serious and the primary sentencing consideration of deterrence must be given weight. Suspending any or all of the sentence would, in the circumstances, be simply inappropriate.
23. Mr Sepa has 14 days to appeal the sentence.

Dated at Port Vila this 6th day of April 2021
BY THE COURT


Justice G.A. Andrée Wiltens

