

PUBLIC PROSECUTOR

V

JOSEPH TARUAN

*Date of Plea:* 2<sup>nd</sup> February 2021  
*Date of Sentence:* 26th day of March, 2021 at 8:30 AM  
*Before:* Justice Oliver Saksak  
*In Attendance:* Ms Georgina Kanegai for Public Prosecutor  
Mr Lorenzo Moli for Defendant

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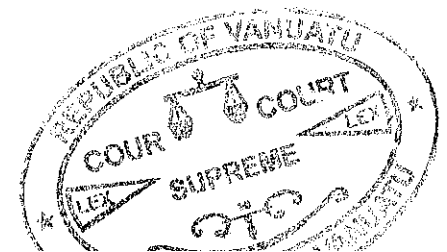
SENTENCE

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1. Joseph Taruan is appearing for sentence today. He pleaded guilty on 2<sup>nd</sup> February 2021 to 3 charges of (a) threats to kill contrary to section 115 (Count 1), and (b) Domestic violence contrary to sections 10 and 4(1) (b) of the Family Protection Act (Count 2 and Count 3).

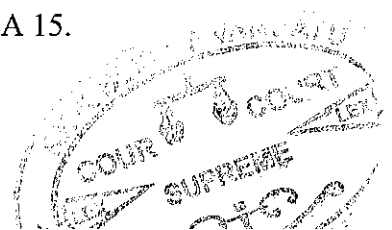
**Facts**

2. Sometimes between 5<sup>th</sup> and 7<sup>th</sup> October 2020 the defendant threatened his other Jacklyn Iesua Iaruel. She was carrying her market produce to the main road when the defendant approached her and demanded she finds his wife and child and bring them home. Mrs Iaruel tried explaining her situation but the defendant lost patience and threatened to kill her dead if she did not do as she was told. These are the simple facts in relation to the charge in Count 1.
3. During the same period the defendant took his spouse's bag by force and removed VT 13.000 in cash from it. He then bought alcoholic drinks with the money and drank them with his friends. He then told his wife not to said anyone to demand the return of the money and that if she did, he would do

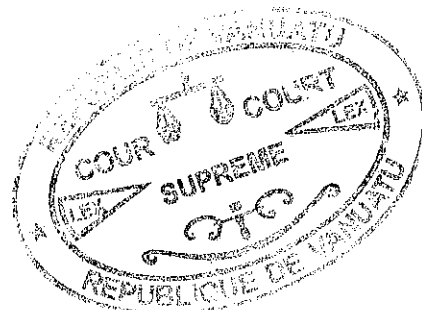


something to her. Those words caused fear in the life of his spouse Lia Sairas. Those facts relate to the charge in Count 2.

4. During the same period the defendant's wife asked the defendant to clean up her parents garden and that she would apply him for doing so. The defendant did so but his spouse failed to pay him the money as promised. He got angry, took a bush knife and went to his in-laws garden and cut down all the crops in their garden. These facts relate to the charge in Count 3.
5. The offence of threats of kill is a serious offence. It carries the maximum penalty of 15 years imprisonment. And domestic violence carries the maximum penalty of 5 years imprisonment and /or a fine of up to VT 100.000.
6. The victims of those offendings are vulnerable persons, all very closely related to the defendant as his wife and in-laws (further-in-law and mother-in-law). There were absolutely no mitigating circumstances for these offendings.
7. These victims are vulnerable members of the society and they need the protection of the Courts. The offences of threats to kill and domestic violence within family members are becoming all the more prevalent in Vanuatu and steps must be taken to eliminate it by imposing appropriate punishments. Women and the vulnerable persons in our society should not be made to live in fear of being beaten overtime they do something no in line with the wishes of their husbands or partners. Women and the vulnerable stand on equal footing and their rights must be protected. These principles are well established in PP v Iakis [1994] VUSC 14 and PP v Simeon [1994] VUSC 15.
8. There were serious breaches of trust as such the defendant's punishment must be one that provides a deterrence to himself and other likeminded persons. This principle is well established in the Queen v Kellic (2016) 2259 CLR 256 as approved by the Court of Appeal in Luen v PP [2019] VUCA 15.



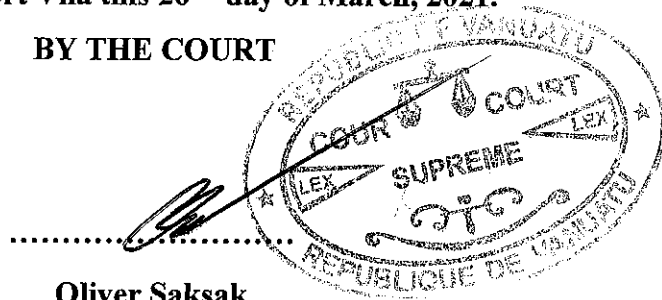
9. The offendings were premeditated and planned. They were committed in the presence of the child of the defendant and his spouse.
10. The defendant resorted to the use of a knife and a stick in the offences he committed.
11. The defendant has a history of violent behavior towards his family members. He was sentenced to imprisonment for 2 years, 6 months for intentional homicide in 2010. That offence involved violence, although the offence he committed is totally unrelated.
12. By comparison to the cases submitted by Prosecutions and defence counsel this case is almost similar to the case of *PP v Thomas Maliwan* [2018] VUSC, except that in that case the third charge was for intentional assault causing temporary injury. No such physical injuries were evident in this case. But in my view for reasons given earlier, a sentence of 2 years imprisonment is a little on given earlier, a sentence of 2 years imprisonment is a little on the lower side and does not serve as a deterrence.
13. The other case of relevance is *PP v Pita* [2017] VUSC 117 which in the circumstances of this case reflects the more appropriate starting sentence of 5 years imprisonment.
14. Taking the seriousness of all the offences committed by the defendant in this case, I set the starting sentences as follows-
  - (a) For threats to kill (Count 1) a sentence of 5 years imprisonment concurrent.
  - (b) For domestic violence (Count 2), 2 years imprisonment concurrent.
  - (c) For domestic violence (Count 3) 2 years imprisonment concurrent.The total concurrent for all 3 offences is 5 years imprisonment.



15. In mitigation I take into account his guilty plea. I allow the full 1/3 reduction for this factor which takes account also of his admission to the police during investigations, and his cooperation with them. I reduce his sentence of 5 years by 1 year 8 months leaving the balance of 3 years 4 months.
16. He has not shown any remorse for his actions. But for his other personal such as his being children and family being dependent on him for livelihood, I deduct 4 months from his 3 years imprisonment.
17. Joseph Taruan is convicted and sentenced to an end sentence of 3 years imprisonment for all 3 offences he was charged with. There will be no suspension of sentence.
18. I note the period he has already spent in custody. So that he does not lose his parole eligibility privilege, I order that his sentence be backdated to 7<sup>th</sup> October 2020 when he was first taken into custody.
19. The defendant 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 March, 2021.**

**BY THE COURT**



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**Oliver Saksak**

**Judge**