

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

**Criminal**  
**Case No. 20/3367 SC/CRML**

**BETWEEN: Public Prosecutor**

**AND: Harry Willie**  
Defendant

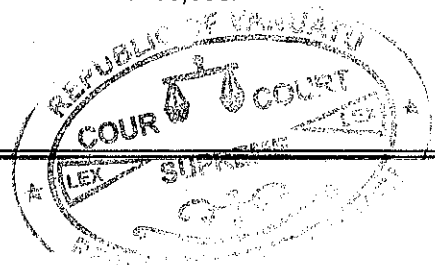
Date of Plea: 23<sup>rd</sup> February 2021  
Date of Sentence: 26<sup>th</sup> April 2021  
By: Justice Oliver A Saksak  
Counsel: Georgina Kanegai for the Public Prosecutor  
Eric Molbaleh for the Defendant

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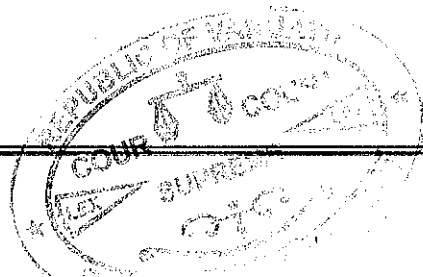
**SENTENCE**

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1. The defendant was re-arraigned on 23<sup>rd</sup> February 2021 after the charge of domestic violence was amended by the Prosecution. He pleaded guilty. He is appearing today for sentence.
2. On 29<sup>th</sup> March 2017 the defendant assaulted his partner Annie Marie Bongbong by hitting her on the back with his hand.
3. He was charged with committing the offence of domestic violence contrary to section 10 (1) of the Family Protection Act.
4. This offence carries a maximum penalty of 5 years imprisonment and/or a fine of Vt 100,000.



5. The victim is the defendant's defacto partner. They live together at the defendant's house at Freshwater No. 5. They are looking after and caring for 5 children. They have adopted another child aged 12 years. The offending was committed in the presence of these children and other family members.
6. The offending appeared to have been planned. There was a serious breach of trust. The complainant was entitled to feel safe and protected by the defendant within the confines of his house.
7. The only explanation for the defendant's action was that the complainant was ignoring the defendant's relatives upon their visits to the home. But that is insufficient to be a mitigating circumstances.
8. This complainant and all women generally are entitled to protection of the law. They stand on equal footing as the men. They deserve protection from the Courts. See PP v. Iakis [1994] VUSC 14, Luen v. PP [2019] VUCA 15 and PP v. Simeon [1994] VUSC 15.
9. Taking the seriousness of the offence committed together with the aggravating features and there being to no mitigating circumstances, I set the start sentence for the defendant at 2 years imprisonment. This is to ensure there is a deterrence not only to the defendant but to other like-minded men.
10. In mitigation I consider first his guilty pleas. He initially pleaded not guilty to the charge on 1<sup>st</sup> December 2020. Only when he was to stand trial and after an amendment to the charge, the defendant then pleaded guilty. That was in February 2021, some 2 months had gone by. For this reason no reduction will be made for his guilty plea.
11. Next I note from the pre-sentence report and his submissions that the defendant has made amends and performed custom reconciliation consisting of a pig, 3 mats and VT 5.000. The complainant has accepted these gifts.
12. I note and take account of the defendant's unblemished record and that since 2017 when the offending occurred there has not been a recurrence.
13. For those factors I deduct 6 months from 2 years start sentence. The balance and end sentence is therefore 18 months or 1 year and 6 months imprisonment
14. The defendant is convicted and sentenced to an end sentence of 1 year and 6 months imprisonment for a charge of domestic violence.
15. I consider the circumstances of the offending, the nature of the offence and the character of the defendant and I am of the view the sentence warrants a suspension.



16. I therefore order that the defendant's end sentence of 18 months imprisonment be suspended under section 57 of the Penal Code Act [CAP.135]. This means that the defendant does not have to go to prison today. He will continue to live at his home with his family but he must keep the peace and must not reoffend by committing this offence again, or any other criminal offences for which he would be charged and convicted. If he does within a period of 2 years from today's date, he will go to prison to serve his 18 months jail term.

17. There is a right of appeal against this sentence within 14 days if the defendant does not agree with it.

**DATED at Port Vila this 26<sup>th</sup> day of April 2021**

**BY THE COURT**



**Oliver.A.Saksak**

**Judge**

