

PUBLIC PROSECUTOR v BOMBLOHI NUENUE

Coram: *Hon. Chief Justice V. Lunabek*

Counsel: *Ms M. Taiki for the State*
Mr R. T. Willie for the Defendant

Date of Plea: *11 July 2022*

Date of Sentence: *05 August 2022*

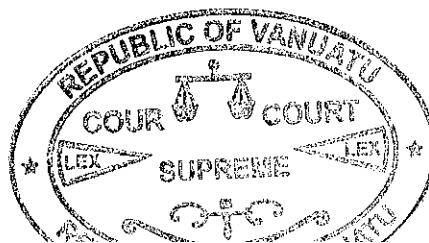
SENTENCE

A. Introduction

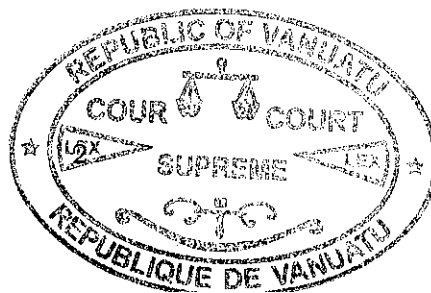
1. Bombolohi Nuenue, you appear today for sentence having pleaded guilty to one Count of intentional assault, contrary to section 107(c) of the Penal Code.

B. Facts

2. You are about 21 years old, and you are from Avunatari village, Malo Island.
3. Damsai Molisale (the complainant) is about 37 years old and he works as a construction worker and he is also from Avunatari village on Malo.
4. On 22 February 2022 at Avunatari village, Malo Island, around 7:00 am in the morning, Mr Molisale was walking along the road to go to work and he met a small girl crying.
5. Mr Molisale asked the girl what was the matter, the girl responded that a man had tried to cut her and tried to take her bicycle. Mr Molisale asked the girl where the man was and the girl pointed at you Bombolohi Nuenue.

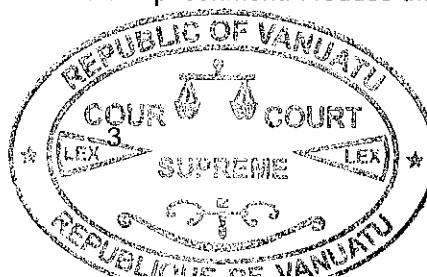


6. Mr Molisale then approached you and told you to take the small girl to the clinic. You replied it was not you. Mr Molisale then spoke strongly to you.
7. Mr Molisale saw that you became angry he also saw that you were holding a knife and running towards him (the complainant). He tried to stop you by throwing a stone at you but he missed you.
8. You continued to run towards him. He walked and then knelt down and blocked his head with his left hand but you swung the knife at him. The knife made contact with Mr Molisale's head and cut off his left pointer finger, he felt that the knife was cutting his other fingers.
9. Mr Molisale then turned around but you swung the knife again at his head he felt the knife cut at his right hand, he felt pain and moved his hand but the knife made contact with his left side of his head slicing the skin of his head.
10. You saw there were bystanders watching and you run away into the bushes.
11. The complainant was helped by Wala Luke who took him to the clinic where he was treated and referred to Santo for further medical treatment at the Northern Provincial Hospital.
12. Mr Molisale sustained injuries to his body. He was examined on 23 February 2022 and the medical report by Dr Thompson L dated 24 February 2022 showed the following:
 - Right hand laceration 5cm at thenar compartment bleeding, flexon tendon cut;
 - Left hand with amputation of left indicis at medial phalange, bleeding, laceration of 3rd middle phalange, flexor tendon cut with bleeding, laceration of 4th middle phalange, flexon tendon cut, bleeding;
 - Laceration 7cm at left parietal region with bleeding and depth to cranium;
 - Laceration 15cm at right temporal region a lot of bleeding depth to cranium.
13. You were was cautioned on 24 February 2022, you understood your rights and the allegations against you. In your caution statement, you admitted cutting the complainant with a long knife, you knew that the knife reached the complainant's head and that you understand that you are doing the wrong thing.



C. Start point sentence

14. The maximum sentence is 10 years imprisonment. I consider your culpability based on the circumstances of your offending and this is coupled with the comparable cases referred to by the prosecution: Tari v PP [2011] VUCA 26 and Moli v PP [2014] VUCA 27.
15. Your lawyer referred to the following cases:
- Tari v PP [2011] VUCA 26;
 - PP v Noel [2012] VUSC 230;
 - PP v Mael [2018] VUSC 150; and
 - PP v Quaga [2018] VUSC 163.
16. I assess the sentence starting point to be 4 years imprisonment as appropriate in the circumstances of this present case.
17. I uplift the sentence start point based on the following aggravating and personal factors relating to the offending:
- (a) Extent of injuries sustained, loss finger/loss of skin of head;
 - (b) Repetition of attacks on the victim, cuts on the hands and head of the victim;
 - (c) Unprovoked attacks;
 - (d) Use of a dangerous weapon (knife);
 - (e) Impact on victim, pain and suffering;
 - (f) The offender was released on bail on 28 April 2022 and he run away back to Malo Island. A warrant of arrest was issued against him. He was arrested and brought to the court on 11 July 2022 for plea.
18. The sentence is uplifted to 5 years imprisonment.
19. In mitigation, I allow a reduction of 2 months for your remorsefulness and other mitigating factors which render your sentence to 4 years and 10 months imprisonment. I reduce that sentence further for your

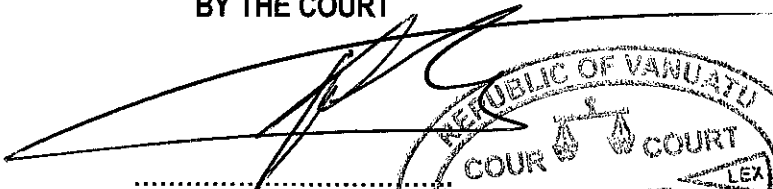


early guilty plea and I allow 25% for that. Your sentence is further reduced to 44 months i.e., 3 years and 8 months imprisonment.

20. Your end sentence is 3 years and 8 months.
21. The nature and seriousness of this offending does not allow for a suspension of this imprisonment term.
22. You shall serve your end sentence of 3 years and 8 months imprisonment which deemed to start on 25 February 2022 to take into consideration 105 days you have spent on remand.
23. You have 14 days to appeal this sentence if you are unsatisfied with it.

DATED at Port Vila, this 5th day of August 2022

BY THE COURT


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Vincent LUNABEK★
Chief Justice

