

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

Criminal
Case No. 22/455 SC/CRML

PUBLIC PROSECUTOR

V

CALVIN ISAAC

Date of Sentence: 13th December 2022
Before: Justice D. Aru
Counsel: Ms Josephine Tete for Public Prosecutor
Nigel Morrison for Defendant

SENTENCE

Introduction

1. The defendant Mr Calvin Issac pleaded guilty to three counts of intentional assault causing damage of a temporary nature, (counts 3,4 and 5) and three counts of domestic violence (counts 6,7 and 8). Two counts of threats to kill (counts 1 and 2) were nollied by the prosecution. The defendant is now for sentence on his guilty pleas.

The facts

Count 3

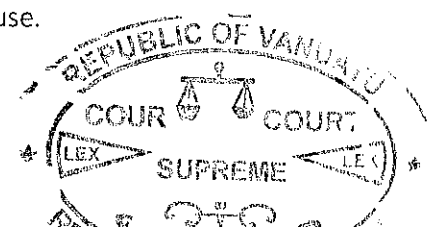
2. The complainant is the defendant's de facto partner. On 4 January 2022 the complainant and the children were at their grandparents' house at Erakor hiding from the defendant. He was not happy that the children went Erakor. He later went to Erakor himself to get the children back to their house but the children were afraid of him. He tried pulling the children from the complainant but they held onto the complainant. The defendant also held onto them and told them to go to the waiting bus. The defendant held his son Sebastien and threw him against a wall hitting his left eye and face on the concrete wall.

Count 4

3. At the same time the defendant held his daughter Victoria Issac and threw her against the door hitting her left jaw.

Count 5

4. After assaulting the two children he held the neck of the complainant punched her on the back and threw her against chairs on the verandah of the house.



Count 6

5. On 28 December 2021 the family was ready to go to town for some shopping. The defendant returned from work and cancelled the plans saying they should not be wasting money. He then asked the complainant to refund VT 10,000 he gave her. They argued about the money with the complainant saying the defendant was willing to spend money on his parents and family but not his own son. The defendant became angry and said words to the following effect to the complainant: "*yufala ol man erakor e go luk yufala mo fuck fuckem yufala*. (You people from Erakor should go see yourselves and fuck each other)"

Count 7

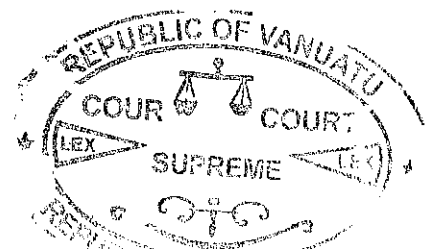
6. On 15 January 2021, leading on from an argument the previous day where the defendant told the complainant to remove her things from the house, the complainant was removing her things and putting them outside the house when the defendant asked her why she was removing her belongings. The defendant had a bush knife with him. The complainant was afraid he might cut her and ran. Their daughter followed her. They both ran to relatives at Enam Church and later went to the Police to file a complainant against the defendant.

Count 8

7. Sometime still in 2021, issues between the complainant and defendant continued to escalate at home due to the defendant's continued use of alcohol. On one occasion the defendant came home drunk took a bush knife and cut the complainant's clothes in front of the children and the complainant. While cutting the clothes the defendant uttered words to the following effect to the complainant in front of the children: "*sting cunt! olfala cunt*" (sting cunt! old cunt). Upon seeing this the complainant ran away to hide from the defendant followed by their children.

Starting point of sentence

8. The maximum sentence available for intentional assault causing damage of a temporary nature is 5 years imprisonment. Similarly for domestic violence the maximum sentence available is a term of imprisonment not exceeding 5 years or a fine not exceeding VT 100,000 or both. There are a number of aggravating factors of the offending. There is a serious breach of trust by the defendant as the children's father. The offending occurred at home in front of the children and the offending was repeated. The defendant's actions caused the children and the complainant to fear for their lives. Finally, the defendant as a Police officer was duty bound to uphold and enforce the law not the opposite. There are no mitigating factors of the offending.
9. I adopt an overall starting point of 3 years imprisonment to be concurrent. This is to mark the seriousness of the offending and to show public disapproval of such offending. It is also punishment for the crime and shall be a deterrence to the defendant and the public at large from further or similar offending in future.



Mitigation

- 10. The defendant changed his plea and entered guilty pleas to the charges after the matter was listed for trial. A lesser discount is warranted and I allow a discount of 15 %.
- 11. The Pre-Sentence Report shows that the defendant is 37 years old. He is a first-time offender and lives in a de facto relationship with the victim and they have four children. He is the breadwinner and is responsible for the children’s school fees. He is now employed by the Department of Foreign Affairs. He blames himself for the offending. No custom reconciliation has been undertaken with the victim.
- 12. The defendant has also spent 24 hours in custody. Taking into account these factors, the end sentence is further reduced by 9 months.

End Sentence

- 13. The end sentence is therefore rounded off to 18 months imprisonment to be concurrent on each count. Considering the factors under s 57 of the Penal Code [CAP 135] on suspension of sentences, I will suspend the sentence for a period of 2 years. In addition, the defendant will perform 150 hours of community work and undertake the Niufala Rod Program.
- 14. The defendant has 14 days to appeal if he is dissatisfied with the decision.

DATED at Port Vila this 13th day of December, 2022.

BY THE COURT



D. Aru
Judge

