

**PUBLIC PROSECUTOR**

**V**

**ARNOLD ANDREW**

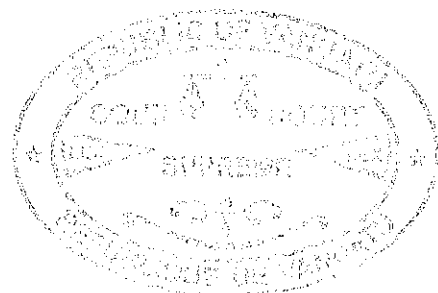
**Date of Plea:** 1<sup>st</sup> day of November, 2022  
**Date of Sentence:** 25<sup>th</sup> day of November, 2022  
**Before:** Judge SM Harrop  
**Appearances:** Mr C. Shem for the Public Prosecutor  
Ms F. Kalsakau for the Defendant

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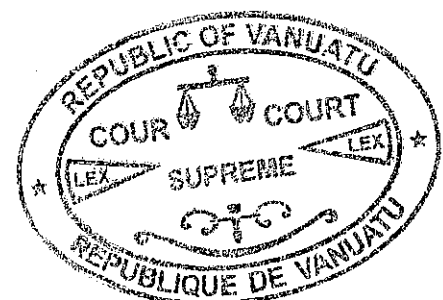
**SENTENCE**

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1. Mr Andrew you appear for sentence today having pleaded guilty on 1 November 2022 to 2 charges relating to 8 April 2018: threatening to kill and domestic violence, respectively carrying maximum penalties of 15 and 5 years imprisonment.
2. The victim is your then wife Sally Andrew. You had lived together for at least 10 years before your offending and you have three children together. You separated as a result of this incident.
3. The facts, which you accepted when pleading guilty, are that you were jealous about your wife attending church where she looked after the Sabbath school. More particularly you were suspicious that she had formed an association with another man whom she saw at church.
4. At about 7 am on 8 April 2018 you were sharpening a large knife and while you did that you told her directly that you could go to prison for her and that she should tell the other man "I will cut you like meat". You told her to tell him to come and watch you do that.
5. Unsurprisingly the victim was very distressed by this and began crying. She left home with the three children and went to the police to make a complaint.
6. Although there are two charges there is just one incident and concurrent sentences are appropriate. I treat the domestic violence charge as highlighting one of the aggravating factors of the threatening to kill, namely that the person you threatened was your wife, in her home and in the presence of the children.



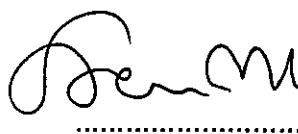
7. The other obvious aggravating feature is that the threat was not merely of injury but murder and mutilation, made when you had the immediate ability to do that, adding considerable weight to your threat and consequently to her fear.
8. It is all very well to say with the benefit of hindsight that she suffered no injury and the threat was not carried out but at the time she did not know whether you would carry it out, so she suffered understandable and considerable fear that you would fatally hurt her in the presence of your children.
9. The fact she was not physically hurt is the absence of an aggravating factor which would have made the incident worse; it does not reduce the seriousness of the offence.
10. There is no excuse or justification for this kind of behaviour. In particular your jealousy, whether well-founded or not, is no excuse whatsoever for acting in a possessive and violent way towards your wife.
11. I have read the pre-sentence report and the sentencing submissions filed by the prosecution and your counsel and the judgments to which they have referred, namely Public Prosecutor v Tasso [2016] VUSC 24, Public Prosecutor v Nakou [2021] VUSC 319 and Public Prosecutor v Charley [2019] VUSC 31.
12. My task is first to establish an appropriate starting point sentence of imprisonment and then to consider the extent to which that should be reduced by personal mitigating factors, then to consider whether the prison sentence should be suspended rather than served by you immediately.
13. The prosecutor submits with reference to relevant authorities that a starting point of 3 to 4 years would be appropriate whereas Ms Kalsakau suggests 2 years.
14. After considering the submissions and the authorities I am satisfied that the least restrictive starting point I can properly adopt is one of **three years imprisonment**.
15. As to mitigating factors, you have pleaded guilty, entitling you to a one-third discount bringing the sentence down to 2 years or 24 months imprisonment.
16. In addition, you are 28 with no previous convictions so you were previously of good character. There is also no suggestion of any offending since the incident. I accept this was out of character behaviour driven by jealousy.
17. You were willing to perform a custom ceremony but your wife and her family refused to accept it; that is their choice but you are entitled to some credit for being willing to do that.



18. Also of significance is the fact that it is some 4 ½ years since the incident. There has been an unacceptable delay in the Public Prosecutor commencing the proceedings in May this year more than four years after the incident. That is unfair to you, and indeed I might add to the victim.
19. I am satisfied that, aside from your guilty plea, these other matters that warrant a further nine months discount resulting in an end sentence of **15 months imprisonment**.
20. I am urged by your counsel to suspend that sentence of imprisonment and impose some community work.
21. Mr Shem acknowledges that may be appropriate here and that it is a matter of discretion for me.
22. I take into account the criteria set out in section 57 (1)(a) of the Penal Code. I take "the circumstances" to include not only those relating to the offence but also those relating to you, the offender.
23. I accept it is relevant that no physical harm was suffered by the victim. The delay in sentencing is also material. Of particular importance is the fact that I understand you do support your children by sending them money. Obviously sentencing you to serve the prison sentence would make victims of them, innocent though they are, because you would not be able to earn money to send them.
24. I have therefore decided it is appropriate to suspend your prison sentence of 15 months for a period of two years. You must understand that if you offend in any way during that period you will be required to serve that sentence and whatever additional sentence is appropriate for the further offence.
25. I also sentence you to complete 100 hours community work.
26. You have 14 days to appeal the sentence if you wish to do so.

DATED at Port Vila this 25<sup>th</sup> day of November, 2022

BY THE COURT



SM Harrop  
Judge

