

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

**Criminal
Case No. 22/827 SC/CRML**

BETWEEN: Public Prosecutor

**AND: Kalo Meron Aron
Defendant**

Date of PLEA: 17th May 2022
Date of Sentence: 1st July 2022
Before: Justice Oliver Saksak
In Attendance: Ms Betina Ngwele Prosecuting for Public Prosecutor
Mr Brian Livo for the Accused

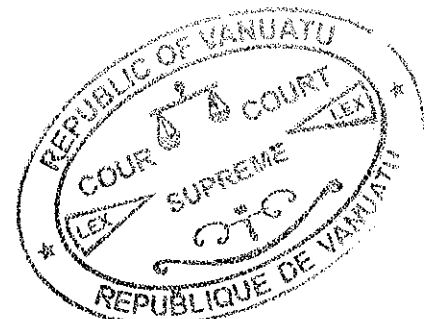
SENTENCE

Introduction

1. On 17th May 2022 Kalo Meron Aron pleaded guilty to one charge of domestic violence (Count 1), one charge of intentional assault causing permanent injury (Count 2) and one charge of malicious damage to property (Count 3).
2. The Court accordingly convicted the accused on his guilty pleas. He is here for sentence today.

Maximum Penalties

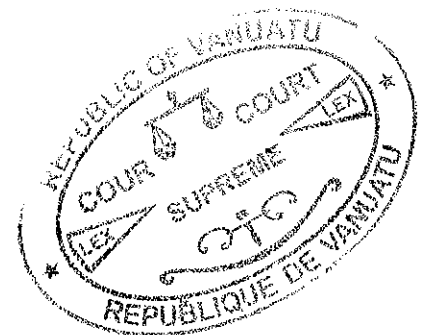
3. Under section 4(1)(a) of the Family Protection Act, domestic violence attracts the maximum penalty of 5 years imprisonment.
4. Under section 107 (c) of the Penal Code Act, Intentional assault causing permanent injuries carries the maximum of 10 years imprisonment.



5. And under section 133 of the Penal Code Act, Malicious damage to property attracts the maximum penalty of 1 year imprisonment.
6. By their lengths of maximum sentences the offences of domestic violence and assault causing permanent injuries are very serious criminal offences. And sentences for those offences must reflect the seriousness of the offences committed.

Background Facts

7. The accused and his victim had lived together in a defacto relationship for 3 years until July 2021 when their relationship broke up. The accused could not accept the reality and therefore kept stalking the victim through phone calls. She would block his calls but he would borrow some else's phone to call the victim. He would wait for her at Tebakor road to talk to her but the victim refused to talk to him.
8. On 2nd September 2021 the victim bought noodles from the Tebakor Shopping Centre and got on a bus and went off to Pango to meet the defendant. She got off the bus at Pango SDA and started walking towards the accused's home. He met her on the way and asked the victim why she did not love him anymore. She told him she did not love him anymore and that he should accept it and move on. At this statement the accused became angry and started to argue. When they reached the house, the accused took a baseball pad and beat the victim's hand with it. She fell to the ground and the accused kicked her hard on the chest. He hit her again a couple of times with the baseball pad to the head and hands, while the victim kept blocking her head with her hands and crying out for help. The victim sustained injuries to her skin, hands, head, fingers, eyes and ears. She fell unconscious and only woke up in the emergency ward at the Vila Central Hospital. In the course of the assault the victim's hand bag was also damaged by the accused.



9. The medical report of the victim dated 2nd September 2021 as follows:-

“GCS – 15/15 although in a lot of pain. Periorbital Ecthymosis (Raccoon eyes).

Hemotoma over left temporal region of head with laceration over both temporal 8 cm of head which were stitched and forehead laceration which was stitched. Laceration was noted on her right knee. Pain per right hand of which x-ray showed a fracture of the second metacarpal bone.

She was treated for moderate head injury with a base of scalp fracture”.

10. Photographs of the actual injuries taken by the Police on 4 September 2021 show serious injuries consistent with the above medical report. Those photographs also include the 76 cm baseball pad (wooden).

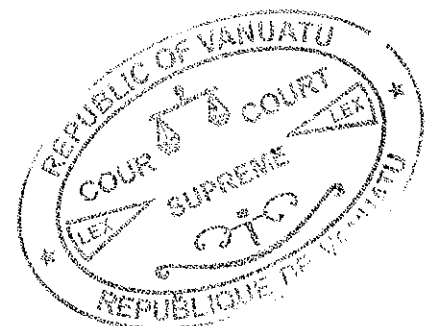
11. These were serious and near-fatal injuries especially the head wounds. The 8 cm laceration to the head almost exposed the brain of the victim.

12. The actions of the accused were unlawful and unwarranted. There were no justifiable reasons or explanation for them. The Court must condemn those unlawful acts by imposing an appropriate penalty. I will treat the intentional assault charge as the lead offence.

Aggravating Features

13. The aggravating features of the accused’s offendings were –

- The serious breach of trust;
- The offendings occurred in the home of the accused where the victim was supposed to feel safe;
- A wooden baseball pad was used as a weapon;
- A degree of planning was evident;
- The serious injuries (near fatal) caused or sustained;
- The repeated nature of the assaults;
- The pain and suffering caused to the victim;
- The complete lack of respect for a human life.



Start Sentences

14. Taking all these into account I therefore impose the following sentences-

- (a) For intentional assault (count 2) causing permanent injuries – 5 years imprisonment as the starting sentence;
- (b) For domestic violence (count 1) 2 years imprisonment to be served concurrently with the 5 years sentence for intentional assault;
- (c) For damage to property – 4 months imprisonment concurrent to the sentences for the charges in counts 1 and 2.

In total, the start sentence as a concurrent sentence is 5 years imprisonment.

Mitigation

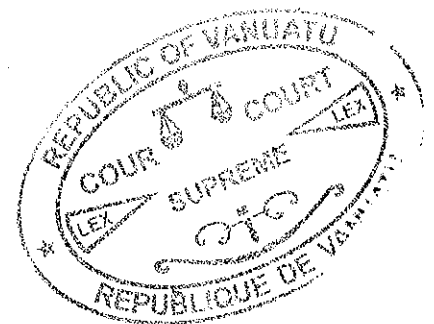
15. In mitigation I consider the accused's guilty pleas but do not think he is entitled to the full 1/3 reduction. He does not appear to be remorseful for what he unlawfully did. I deduct his start sentence by 1 year.

16. He is a 22 year old man with no previous criminal convictions. He co-operated with the Police on his arrest and freely admitted to his actions on his arrest. He spent a day in remand in custody on 14 September 2021 and released on bail on 15 September 2021. He is entitled to a further reduction of his balance of sentence by 4 months.

End Sentence

17. The end sentence of the accused is 3 years and 8 months imprisonment with immediate effect.

18. There will be no suspension of sentence as the seriousness of the offences do not warrant it.




19. I therefore sentence the accused to a end sentence of 3 years and 8 months with immediate effect.

Right of Appeal

20. There is a right of appeal against this sentence within 14 days.

DATED at Port Vila this 1st day of July, 2022

BY THE COURT

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Oliver Saksak
Judge

