

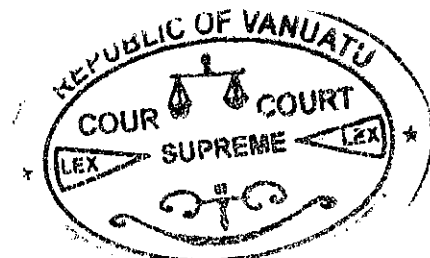
BETWEEN: **Public Prosecutor**

AND: **Henry Alexander Ford Hooker**
Defendant

Date of PLEA: **10th July 2023**
Date of Sentence: **21st July 2023**
Before: **Justice Oliver Saksak**
In Attendance: **Mr Gregory Simeon for Public Prosecutor**
Mr Steven Garae for the Defendant

SENTENCE

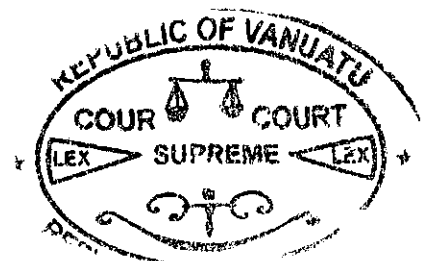
1. The defendant Henry Alexander Ford Hooker pleaded guilty to one charge of unintentional harm causing permanent bodily injuries. He is for sentence today.
2. Under section 108 (b) of the Penal Code Act [CAP 135] this offence carries the maximum of 2 years imprisonment.
3. A collision occurred at the Second Canal Hill on 16th February 2022 at around 11:00am. The defendant was driving a yellow Loader-Truck owned by the Vanuatu Copra and Cocoa Exports Limited (VCCE). Down the hill towards the Police and fire station, the brake system became disfunctional and the defendant swerved the loader to one side of the road. In doing so, the defendant collided into a pedestrian lady and her daughter, Enid Tutuo Agwaiasi and Zariella Agwaiasi causing them serious bodily injuries of permanent nature.
4. Dr Samuel Kemuel produced a medical report dated 5th July 2022 respectively showing that-
 - a) Mrs Agwaiasi suffered a 5cm laceration (cut) to the medial on the right leg deep to the bone with the other soft tissue injuries, swelling and abrasions, and a grossly deformed left leg confirmed by x-ray to be a fibula fracture with lateral displacement.
The doctor stated the victim underwent multiple surgeries to her lower limbs to treat her fracture and complex soft tissue injuries.



- b) For Miss Agwaiasi the 20 year old daughter, she suffered a horizontal 6cm cut on the occupant, deep to the bone, multiple left hemifacial cuts with 2 largest measuring 1cm and 1 measuring 1cm, left skull fractured, a right leg open fracture with lateral displacement assessed at 80%, left leg open fracture of 6cm with lateral displacement and suffered a threatened loss of blood supply.

The doctor stated that the victim too underwent multiple and complex surgeries to her lower limbs.

5. Those were life threatening and permanent injuries causing much pain and suffering and stress for both victims and their family members as well bearing in mind they are expatriates with Mrs Agwaiasi serving as a contracted Registered Nurse and Dietetic Officer at the Northern District Hospital. They had to be flown over to the Central Hospital in Port Vila for their medical attention and treatment.
6. On his own admission the defendant accepted he drove the loader recklessly or negligently and caused the injuries sustained by his two victims. His only explanation was that the steering wheel and brake failed to function. But that is no mitigating circumstance. This was a terrible accident with two victims sustaining life threatening injuries of permanent nature.
7. It is essential that the Court should impose a sentence that should mark the seriousness of the offending, to mark public disapproval of the defendant's action, to deter him and other like-minded persons, to protect the public and to punish him adequately and appropriately. Therefore a custodial sentence is appropriate to serve those purposes.
8. I therefore having considered the sentencing submissions by Prosecution and Defence Counsel, I adopt the start sentence of 21 months imprisonment.
9. In mitigation I have seen his pre-sentence report. But first I begin by deducting 1/3 of the sentence for early guilty plea which is 7 months. The balance is 14 months imprisonment.



10. Next his clean past record, act of mercy and kindness towards the victims after the accident, remorse and other personal factors, a further reduction of 4 months. His end sentence shall be 10 months imprisonment. I therefore convict and sentence the defendant to an end sentence of 10 months imprisonment.
11. I take into account the circumstances, nature of the crime and the character of the offender and order that the end sentence be suspended under section 57 of the Penal Code Act for a period of 3 years, on good behaviour. This means the defendant does not go to prison today, but if he, commits this offence again or any other criminal offence for which he would be charged and convicted, he will go to prison for 10 months.
12. In addition, the Court Orders that the defendant performs 80 hours of community work to be performed within 12 months.
13. The defendant must report to the Probation Service within 72 hours for further directions. There will be a separate order to this effect.
14. That is the sentence of the Court. There is a right of appeal against this sentence within 14 days.

DATED at Luganville, this 21st day of July 2023

BY THE COURT


OLIVER A. SAKSAK

Judge

