

PUBLIC PROSECUTOR
V
JOHNSON NIMANI

Date of Sentence: 19th day of September, 2023 at 4:00 PM

Before: Hon Chief Justice Vincent Lunabek

In Attendance: MJ Meltebury for Public Prosecutor
KB. Karu for the Defendant

SENTENCE

A. Introduction

1. Mr. Johnson Nimani ("Mr. Nimani"), you appear for sentence. On 22 August 2023, you entered guilty pleas on:
 - One count of Threats to Kill a person, contrary to section 115 of the Penal Code;
 - One count of Domestic Violence, contrary to sections 10 (1) and 4 (1) (a) of Family Protection Act No. 28 of 2008.
 - One count of Intentional Assault, contrary to section 107 (b) of Penal Code.

2. The maximum penalty of these offences are:
 - Threats to Kill a person, imprisonment for 15 years.
 - Intentional assault, imprisonment for 5 years.
 - Domestic Violence, imprisonment not exceeding 5 years or a fine not exceeding 100,000 Vatu, or both.

B. Facts

3. Mr. Nimani, you are 49 years old. You originate from Tanna Island.

4. You are married to the first complainant (Tamanu Isaac). You have been married and living together as husband and wife for 21 years and you both have four (4) children. You both reside with your children at Tagabe area.



5. The second Complainant, Nambe Johnson is your biological daughter. She lives with you both at Tagabe area.
6. Sometimes during the month of May 2023, you had an argument with your wife (first complainant) at your residence at Tagabe area. You were angry at the First Complainant and wanted to assault her. She fled from you and went to stay with her older sister at Mele. A few days later, your daughter, the Second Complainant, went to see her mother at Mele area.
7. You searched for your daughter and your wife for a week until you finally found them at Mele area during the month of May.
8. Upon finding them, you verbally threatened to kill them. Your exact words were "Tetei bai mi killem death utufala".
9. You then got a dried branch of "natangura" and hit the whole bodies of the First and Second Complainants several times with it. The First Complainant managed to escape your assault and went to the police station to report the incident.
10. The Second Complainant remained in your person's firm grasp and you took her back with you to your residence at Tagabe area. At your residence, you further whipped her and she urinated on herself.
11. A few weeks later, on the 11th of June 2023 at your residence at Tagabe area around 8:30pm, you became very angry once more with the Complainants for returning home very late that day.
12. You then got a short timber wood and hit the First Complainant on her head, her left hand and then her knees. This caused the First Complainant to experience pain and sustained injuries on her body.
13. Fortunately, your local chief heard the First Complainant's pleas for help and came over to intervene. He removed the timber from you and told you to stop assaulting the First Complainant.
14. The First Complainant was taken to the hospital by a relative for the medical attention to the injuries she sustained from the assault.
15. A medical report issued on the 12th of June 2023 indicated the First Complainant sustained a head injury- laceration about 8cm which required 5 stitches to be sutured properly and was likely caused by a blunt object to the head.



16. You have been arrest and remanded in custody since the 13th day of June 2023.

C. Sentence Stand Point

17. In the circumstances of this case, the physical assault on the bodies of the First and Second Complainants were repeated. On the two occasions, Mr. Nimani used branches of wood as weapons to assault the bodies of the Complainants. Threats to Kill a person is treated as leading offence. I take a global consideration of the circumstances of this case, I impose the following sentences on Mr. Nimani:

- 3 years imprisonment for threats to Kill a person;
- 3 years for domestic violence; and
- 2 years for intentional assault under section 107 (b).

18. The sentences are to be concurrent. This means that Mr. Nimaini will serve all 3 sentences together. So, your ultimate sentence start point is 3 years imprisonment.

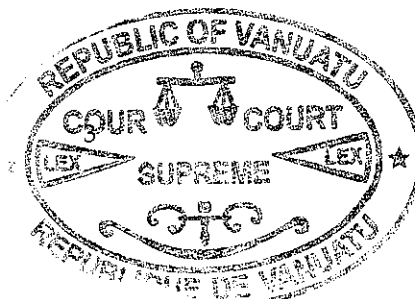
D. Mitigating Factors

19. The pre-sentence report reveals that you have the following mitigating factors:

- You are 49 years old;
- You have good relationship with your family and community;
- You are the bread winner of your family;
- You are not a first time offender. In 2022, you were charged for malicious damage to property and you were sentenced to 7 months imprisonment suspended for 1 year and a fine of VT15,000 for the costs of the property damaged (I will not consider that in this sentence. I take it that it was spent. It was not the type of offence against Section 107 or Section 115 of the Penal Code).

20. I reduce your sentence by 6 months to reflect these mitigating factors.

21. I reduce your sentence further by 33% to reflect your guilty pleas given at the first opportunity to the authorities. Your sentence is reduced to 20 months imprisonment.



E. End Sentence

22. Your end sentence is 20 months imprisonment.
23. You have already spent some time in pre-custody before you are sentenced today. You were arrested and remanded in custody since 13 June 2023.
24. The time you have already spent in custody before you are sentenced will be taken into consideration in your favour.
25. I consider the possibility whether your end sentence of 20 months should be suspended. I consider the serious nature of the offences, the circumstances of the commission of these offenses and your character as the offender, I refuse to suspend your imprisonment sentence of 20 months.
26. You are sentenced to 20 months imprisonment. This sentence is deemed to be effective (start) on 13th June 2023 to reflect the time you have already spent in pre-custody period.
27. You have 14 days to appeal this sentence of you are unsatisfied with it. The 14 days starts at the date of this sentence.

DATED at Port Vila this 19th day of September, 2023.

BY THE COURT



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Hon. Chief Justice Vincent Lunabek

