

BETWEEN: The Public Prosecutor

AND: **Berry Kaloran**
Defendant

Coram: **Justice Dudley Aru**

Counsel: **Ms. M. Tasso for the Public Prosecutor**
Ms. L. Bakokoto for the Defendant

SENTENCE

Introduction

1. Mr. Berry Kaloran was charged under an information containing three counts, namely: one count of threats to kill (count 1) which was nollied by the prosecution, one count of domestic violence (count 2) and one count of possession of cannabis (count 3) which he pleaded guilty to both. He is now for sentence on his guilty pleas.

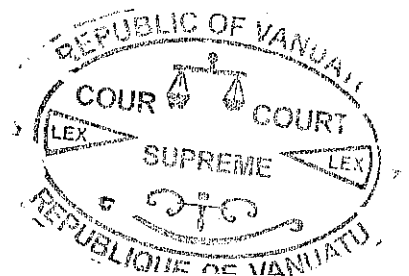
Facts

Count 2

2. Sometimes on the 8 April 2023, the defendant was very angry he damaged some of the complainant's property including "storage bottle blong pima, bottle soyo sauce kapsaedem sospen soup". The defendant's actions at that time terrified the complainant and her family because it showed an escalation in his behaviour.

Count 3

3. Seeing that the defendant became more angrier the complainant called the Police for assistance. The Police did not respond at the same time but on the 14 June 2023, they visited the defendant after a formal complainant was made by the complainant. The Police confronted the defendant at his property at Seven Star and apprehended him. As the Police walked him to the Police vehicle, the defendant reached into his pocket and pulled out a black purse and threw it into the yard. One of the officers saw him and seized the purse. Upon inspection of the contents at the Police station, it was found to contain rolls of substances which were later confirmed to be cannabis weighting 5.63 grams.



Starting Point

4. The maximum penalty for domestic violence is 5 years imprisonment or a fine not exceeding VT100, 000 or both and possession of cannabis is punishable by a maximum sentence of 20 years imprisonment or a fine not exceeding VT100 million or both. A number of aggravating factors stand out in this case.
5. First the offending occurred in a home where the victim should feel safe and protected. The offending occurred also in the presence of children and finally the cannabis weigh 5.63 grams. There are no mitigating factors of the offending.
6. On a global basis the sentence start point is 2 years imprisonment to be concurrent.

Mitigation

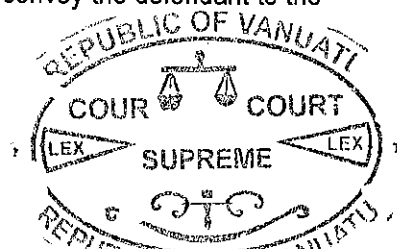
7. A pre-sentence report was filed as directed. The report states that the defendant is a second time offender. He is 38 years old and is a class 6 leaver. His father is deceased and his mother is living at Manples area. He lives at Nambatri area and works as a fisherman which earns him income. He lives in a defacto relationship and recently his wife gave birth to their first child.
8. His chief speaks highly of him as a helpful member of his community except when he is under the influence of alcohol, he could not control his anger. His aunt also confirms this.
9. The report states that the defendant was remanded for roughly a month and a half before being released on bail.
10. Taking into account his personal factors, I deduct 6 months from the sentence start point and a further 2 months for the time spent in custody.

Guilty Plea

11. The defendant pleaded guilty at the first available opportunity therefore the sentence start point is further discounted by 33%.

End Sentence

12. The end sentence is rounded off to 10 months imprisonment. When considering whether I should suspend the sentence I take into account the circumstances, the nature of the crime and character of the offender. It seems the defendant was not deterred by his earlier offending and reoffended. The sentence will not be suspended. It will serve as a further deterrence to any future offending.
13. As the defendant has been on bail, he must present himself to the Centre Manager of the Correctional by no later than 13 November 2023 unless he elects to begin serving his sentence immediately. Should he fail to comply the Centre Manager shall inform the Public Prosecutor to apply for a warrant to have the Police arrest and convey the defendant to the Correctional Centre.



14. The defendant has 14 days to appeal if he is dissatisfied with the decision.

DATED at Port Vila this 30th day of October, 2023

BY THE COURT



.....
Dudley Aru
Judge

