

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

**Criminal
Case No. 22/1540 SC/CRML**

**BETWEEN: Public Prosecutor
Prosecutor**

**AND: Willie Cotten
Accused**

Coram: *Justice Aru*
Counsel: *Mr. T. Karae for the Public Prosecutor*
Mr. K. Tari for the Defendant

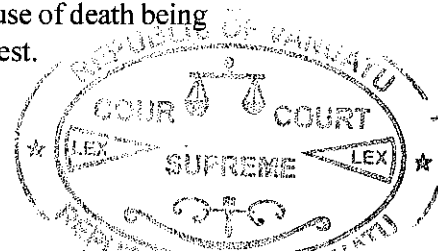
SENTENCE

Introduction

1. Mr Willie Cotten pleaded guilty to a single charge of intentional assault resulting in death.

The facts

2. On the 31 May 2022 the deceased attended a family reunion at Manples area with his brothers. They were later dropped off at home at black sands area in a taxi. On their way to black sands, they got a carton of tusker which they drunk together before going to bed.
3. Later that night the deceased went outside and begun drinking again with his friends. They then went to buy cigarettes at Tangob nakamal and upon returning saw the defendant standing outside HXM warehouse. The deceased and his friends approached him and started asking him what he was doing there and where he was from. The defendant remained silent but said he was from North West Malekula and part Tanna.
4. The deceased insulted the defendant and told his friends to stop talking to him referring to the defendant as "*stink kok*". The defendant was enraged and begun assaulting the deceased and his friends by slightly slashing one on his neck with a knife then stabbing the deceased on his chest. At that instant the deceased held his chest with blood gushing out from the wound.
5. The defendant then fled the scene. The deceased was taken to the hospital in a bus by his friends who were with him. He was later pronounced dead. The cause of death being excessive blood loss caused by a stab wound to the left side of the chest.



6. The defendant was later arrested by the Police and admitted that he was involved in a fight with the deceased and his friends and during the fight he accidentally stabbed the deceased on his chest.

Starting point

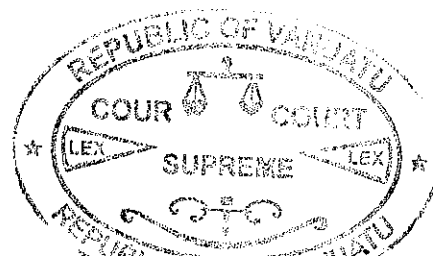
7. The maximum penalty for intentional assault causing death is 14 years imprisonment. The offending in this case is aggravated by the fact that a weapon was carried at night and was used. There are no mitigating factors of the offending.
8. From the facts, it is quite obvious that the defendant was minding his own business when he was approached by the deceased and his friends who were drunk and begun harassing him with questions about his origins then insulted him which led to the incident.
9. A couple of cases were referred to by the prosecution but these are distinguished on the facts as none involved the use of a knife as a weapon.
10. I set the starting point of sentence at 4 years imprisonment.

Personal factors

11. The defendant initially entered a not guilty plea to the charge. He later sought to be re arraigned then pleaded guilty. A deduction of 25% is allowed for the late guilty plea.
12. A pre-sentence report was filed on behalf of the defendant. The report shows that the defendant is 43 years old and is a second time offender. He spent roughly two weeks in custody following his arrest before being bailed. He completed year 10 at Malapoa College and took up studies at USP Emalus campus for 3 years but later dropped out. He resides at Mele village and his chief speaks highly of him as a committed member of the community who helps the chiefs in his area from time to time.
13. He is employed as a security officer by his sister in her security company. He helps his sister by contributing towards the payment of water and electricity bills. He told his probation officer that he is sorry for what he did. Although he intends to perform a custom reconciliation, none has occurred as yet.
14. The end sentence is further reduced by 6 months for time spent in custody and other personal factors.

End sentence

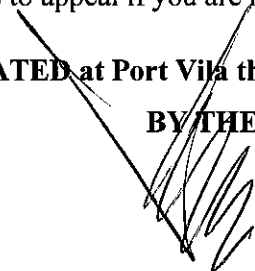
15. The end sentence is therefore 2 years and 6 months imprisonment. The sentence will not be suspended.



16. In accordance with s50 of the Penal Code [CAP135], you must present yourself to the person in charge of the Correctional Centre by **no later than 15 March 2023** unless you elect to begin serving your sentence immediately.
17. You have 14 days to appeal if you are not satisfied with the decision.

DATED at Port Vila this 23rd day of February, 2023

BY THE COURT


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D. Aru
Judge

