

PUBLIC PROSECUTOR

v

WILLIE KELEP

Coram: *Hon. Chief Justice V. Lunabek*

Counsel: *F Sewen for the State*
KB Karu for the Defendant

Date of Plea: *22 Feb. 2023*

Date of Sentence: *26 May 2023*

SENTENCE

A. Introduction

1. Mr Willie Kelep, you appear today for sentence after pleading guilty to one count of unlawful entry (Count 1) and one count of domestic violence (Count 5) on 28 February 2023.
2. On the same date, you entered not guilty pleas to three (3) counts of Domestic Violence (Counts 2, 3 and 4). The prosecution applied not to offer any evidence in respect to these 3 counts under Section 29 of the Criminal Procedure Code. You were discharged of these and they were accordingly dismissed.
3. You are now sentenced only for the offences of unlawful entry and domestic violence in Counts 1 and 5.

B. Facts

4. The complainant in this case is Norcy Oscar. She is your defacto partner. You lived together as husband and wife. You both have 4 children together. The complainant went to Regional Seasonal Workers (RSE) in New Zealand for 7 months and while she was in New Zealand, she heard about your infidelity back in Vanuatu to the effect that you were living with another

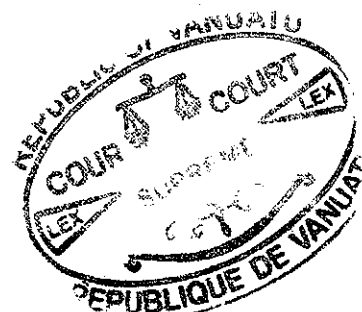


woman. When she got back to Port Vila, she found a rent house at Freshwater 4 and she took the 4 children to go and live with her at Freshwater 4 area.

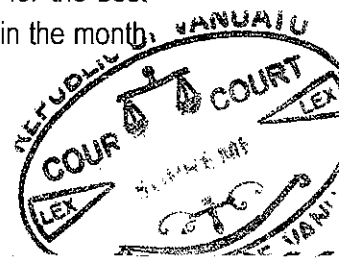
5. The complainant made a report to the police on 15 September 2022, alleging that on the said date at around 03:30am while they were sleeping, she heard someone talking outside her window asking her to open the door if not he will break the door. When she heard the voice, she recognized that it was you, Mr Willie Kelep. She refused to open the door.
6. You then removed the louvers from a window that was close to the main door. You pushed your hand inside and opened the door from within.
7. You then went inside the house and went to the room that the complainant was sleeping in. The complainant tried to reason with you and asked you that you both should go outside because you were causing fear to the children.
8. You then grabbed the complainant and lifted her up to stand and grabbed her left arm and took her outside of the house by force. The complainant stated that you were under the influence of alcohol because she could smell it.
9. After the complainant made a report to the police on 15 September 2022 at around 10am you then went to her again but this time at the complainant's sisters' house at around 12:45pm and assaulted the complainant again by punching her on her head and jaw. At that time, you were also under the influence of alcohol.

C. Sentence Start Point

10. Unlawful entry into a dwelling house (a sleeping house) carries a maximum penalty for 20 years imprisonment. The domestic violence carries a maximum penalty of a term of imprisonment not exceeding 5 years or payment of a fine not exceeding VT100,000 or both.
11. There was no personal mitigating factors to the offending but the following aggravating factors exist in this case:
 - The time of offending was at night. The actions in the night were serious intrusions into private dwellings where the victim should feel safe and protected in her house as the most fundamental unit for all families including the complainant/victim;
 - The offence occurred at home in the presence of the children; the home is a place where the complainant and her children should feel secure, loved and protected;
 - There was a serious breach of trust as a result of the offending;
 - The victim was a woman and a vulnerable person the community;



- The actions of the defendant caused fear to the complainant and her children;
 - The defendant was under the influence of alcohol liquor.
12. I set a sentence start point of 4 years imprisonment for unlawful entry into a dwelling house, among other matters, at night. I set two (2) years for domestic violence. They run concurrently. Your highest sentence in this case is 4 years imprisonment.
 13. You are 34 years of age. You live with the victim woman on a defacto basis and you both have four (4) children together.
 14. You used to travel and worked in New Zealand as an RSE worker for 3 years.
 15. You built a family home at Tagabe which free you from the costs of renting.
 16. After completing the family home, you decided to stop travelling and remain with the children. You allowed your partner (victim) to also travel and work under the RSE scheme because your partner wanted to start her own beauty salon.
 17. While your partner was away for 7 months, you took care of all of your four (4) children.
 18. Your partner returned back to Vanuatu in September 2022 and decided to vacate the family home. She rented a house at Freshwater and move with all the four (4) children there, and then to North Efate with the children.
 19. Despite your opposition, the complainant removed the children from their good standard school to a local standard school in North Efate.
 20. You are a bus driver and you take care of your children and family.
 21. On 13 March 2023, the complainant has travelled back to New Zealand. All the children are now again with you.
 22. You are a first time offender. You do not have a previous conviction. You have a clean record.
 23. I give you 12 months allowance to reflect your clean record and other good personal mitigating factors.
 24. You have performed a custom reconciliation ceremony with the complainant for the best interest of the children before the complainant travelled back to New Zealand in the month



of March 2023. The complainant accepted your reconciliation. The following items were given to the complainant and her uncle:

- 1 pig;
- 2 baskets of taro;
- 3 bundles of banana;
- 3 mats;
- 1 bag rice (18kg).

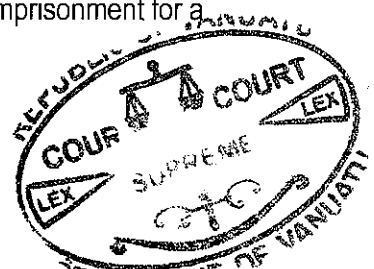
25. The total value of these items summed up to around VT15,000. Another 6 months credit allowance is given to you to reflect the custom compensation.
26. You pleaded guilty at the first opportunity given to you. You are entitled to 33% reduction to your sentence start point.
27. Your remaining sentence is 20 months imprisonment.

D. End Sentence

28. Your end sentence is 20 months imprisonment.
29. The defence counsel noted in her sentence submissions that you have spent 2 weeks in pre-custodial period. She did not mention or refer to the date you were remanded in custody and the date you were released on bail.
30. The pre-sentence report recorded that you were never remanded at the Correctional Centre for your offending. You are on bail awaiting a judgment or sentence relating to your offending.
31. I rely on the pre-sentence report. You have never spent pre-custodial period. Your end sentence is confirmed to be 20 months imprisonment.

E. Suspension

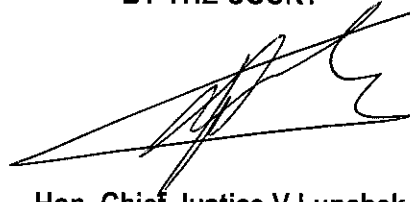
32. I consider the circumstances of the offending. I consider your personal situation, the custom reconciliation while the complainant accepted your custom compensation, in practical sense your apology to her and the return of all your four (4) children with you again while she could return to work in New Zealand. You are again taking care of the children with the assistance of the complainant. I decide to suspend your end sentence of 20 months imprisonment for a period of 2 years.



33. The effect of the 2 years suspension period of 20 months imprisonment is explained to Mr Willie Kelep and he has understood it.
34. You have 14 days to appeal this sentence if you are unsatisfied with it. The 14 days starts at the date of this sentence.

DATED at Port Vila, this 26th day of May 2023

BY THE COURT



Hon. Chief Justice V Lunabek

