

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

**Criminal
Case No. 24/464
SC/CRML**

BETWEEN: The Public Prosecutor

AND: Fredo Kota
Defendant

Coram: Justice Aru
Counsel Ms. G. Kanegai for the Public Prosecutor
Mrs. K. Karu for the Defendant

SENTENCE

Introduction

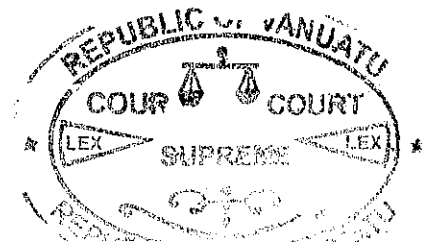
1. The defendant pleaded guilty to 1 count of domestic violence. This is his sentence.

The Facts

2. The complainant is the defendant's wife. They both travelled to Australia to do seasonal work. The defendant travelled in 2019 and whilst in Australia was involved in an affair with another woman and remained in Australia. The complainant travelled in early 2023 and returned to Vanuatu ahead of the defendant in September 2023. The defendant returned on 24 December 2023.
3. On the 25 December 2023 the defendant bought some alcoholic drinks and went to see the complainant and they drank together. The complainant then left the defendant and went to another yard where there was music and dancing going on. It was around 10pm at night. He found her and verbally abused her by saying "yu go who i stap fuckem yu long we ..." and assaulted her on her eyes and face and pulled her home. Upon arriving at the house, the defendant told the complainant to accompany him to another place. She refused and the defendant assaulted her again.

Sentence start point

4. Domestic violence is punishable by a maximum sentence of a term of imprisonment not exceeding 5 years or a fine not exceeding 100,000Vatu, or both. The offending is aggravated by the fact that there is a breach of trust as the complainant is the defendant's wife. The offending



occurred in the home and the defendant was intoxicated when he assaulted the complainant. There are no mitigating factors of the offending.

5. When considering what should be the correct starting point of sentence, counsels referred me to two decisions of this Court. Defence counsel referred to **Public Prosecutor v. Nasse (2019) VUSC 91**. The prosecutor on the other hand referred to **Public Prosecutor v. John Ulas Criminal Case No. 20/1787 SC**. Both cases are distinguished on the facts from the current case, however, counsels agree that a starting point of 2 years imprisonment is within range.
6. The starting point of sentence is therefore set at 2 years imprisonment.

Mitigating factors

7. No pre sentence report was filed as directed. Defence counsel submits that the defendant is a first-time offender with an unblemished record. Taking this factor into account, I reduce the sentence start point by 6 months.
8. For the guilty plea the sentence start point is further discounted by 33%.

End sentence

9. The defendant is sentenced to and end sentence rounded off to 12 months imprisonment. Furthermore, I will suspend the sentence for a period of 2 years. Should the defendant reoffend during this time he will be re arrested and remanded to serve the sentence in custody. In addition, I order the defendant to do 100 hours of community work.
10. The defendant has 14 days to appeal if he disagrees with the decision.

DATED at Port Vila, this 24th day of May, 2024

BY THE COURT

**Dudley Aru
Judge**

