

BETWEEN: Public Prosecutor

AND: Christopher Kalnasei Arthur
Defendant

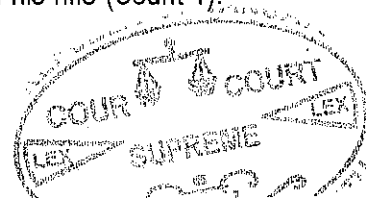
Before: Justice Oliver A Saksak

Counsel: Mr Jordan Aru for the Public Prosecutor
Mr Andrew Bal for the Defendant

Date of Plea: 4th June 2024
Date of Verdict: 27th June 2024

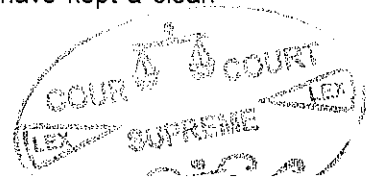
SENTENCE

1. Christopher Kalsnasei Arthur pleaded guilty to one charge of threats to kill, section 115 (Count 1), one charge of damage to property, section 133 (Count 2) and to one charge of trespassing with a firearm, section 30, Firearms Act (Count 4).
2. He pleaded not guilty to possession of a firearm with intent to injure, section 26 of Firearms Act (Count 3) and was acquitted after Prosecutions entered nolle prosequi pursuant to section 29 of the Criminal Procedure Code Act.
3. He is here for sentence only in relation to the three offences to which he pleaded guilty.
4. The offence of threats to kill (section 115) carries the maximum penalty of 15 years imprisonment. Damage to property carries the maximum of 1 year imprisonment and trespassing with a firearm carries the maximum fine of VT 250,000 and/or imprisonment for 5 years.
5. The offendings happened between 8 and 9th March 2024 at Undine Bay at around 10 O'clock pm. The defendant was drunk. He drove his vehicle along the main road and saw the complainants Joana Nukur and Léondie Yambo searching and collecting land crabs. He drove slowly towards them and uttered oral threats that he would shoot them with his rifle (Count 1).



He then drove on and returned a few minutes later when he accelerated damaging the gate of the property (Count 2). He then entered the property parking his vehicle next to a house. He came out of his vehicle with a rifle modelled as "Baikal MP= 18EM-M" and approached the occupants of the house in an aggressive manner (Count 4). This behavior caused fear in the lives of the employees who fled into the bushes. The defendant had the rifle loaded and he discharged it to frighten the employees.

6. The defendant is sentenced on his own pleas. There were no mitigating circumstances. But there were aggravating features such as the unprovoked nature of the offendings, a degree of planning involved, the loaded rifle being fired into the air, the multiple victims involved including children, the damage caused to the gate of the property, the mental effect of the offendings on the victims and the defendant being an executive officer within the Ministry of Agriculture.
7. In assessing appropriate sentence I am guided by the cases of Walker v PP [2007] VUCA 12 and PP v Taravaki [2016] VUSC 73. In the latter case the Chief Justice reiterated what he said in PP v Robert [2016] VUSC 17 in which the Chief Justice adopted the principle of sentencing set out by the Court of Appeal in Walker's case.
8. Taking all those factors together with the seriousness of the offences committed, it is my view that the appropriate sentence for the defendant is to be custodial sentences.
 - a) For threats to kill as the lead offence (Count 1) I sentence you to a start sentence of 3 years imprisonment.
 - b) For malicious damage to property- Count 2, I sentence you to 2 months imprisonment to be served concurrently with the sentence for Count 1.
 - c) For trespassing with a firearm – Count 4, I sentence you to 10 months imprisonment to be served concurrently with the sentence for Count 1.Your total concurrent sentence shall be 3 years imprisonment.
9. In mitigation I consider your guilty pleas for which the full 1/3 is to be deducted leaving the balance of your sentence at 2 years.
10. Next I consider the reconciliation ceremony you performed with the victims which a quite substantial and which shows your remorse and contrition. I note that you have kept a clean



record without any previous convictions. I allow a further reduction of your sentence of 2 years by 8 months, leaving the balance to be 1 year and 4 months.

11. I consider whether I should suspend your sentence or not taking note of your character and personal history. You are a skilled and resourceful person in your local community of Siviri and also to Vanuatu. You are a young man of 40 years with a wife and 3 children to whom you have responsibility of care and love.
12. Your circumstances and the nature of your offendings in my view necessitate the giving of an opportunity for you to rehabilitate and not reoffend in the future.
13. I therefore order that your end sentence of 16 months be suspended for a period of two (2) years from the date of this sentence. During this time you must not reoffend but must be of good behavior. If you do, you will go to prison to serve your 16 months sentence upon you being charged and convicted.
14. There has been a request by the Public Prosecutor to have your rifle and its ammunitions forfeited to the State under section 39 of the Firearms Act. I accept and allow the application and I so order.
15. You may appeal against this sentence within 14 days.

DATED at Port Vila this 27th day of June 2024

BY THE COURT


Hon. Oliver A. Saksak

Judge

