

PUBLIC PROSECUTOR

v

JOHN MARK MAEL

Date: 5 September 2024
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Ms G. Kanegai
Defendant – Mr K.S. Amos

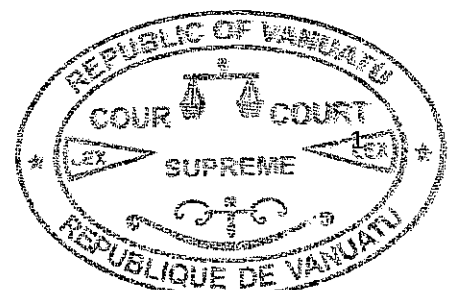
SENTENCE

A. Introduction

1. The Defendant John Mark Mael pleaded guilty to threat to kill contrary to s. 115 of the *Penal Code* [CAP. 135] (Charge 1), domestic violence contrary to para. 4(1)(f) and subs. 10(1) of the *Family Protection Act* 2008 (Charge 2) and theft contrary to s. 122 and para. 125(a) of the *Penal Code* (Charge 3). He is convicted on his own pleas and the admitted facts.

B. Facts

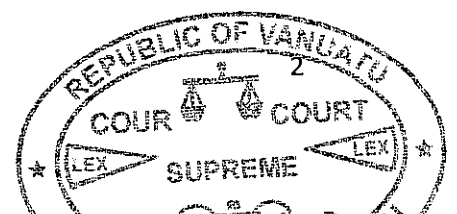
2. Mr Mael is the son of the complainants Anne Tula and Charlie Mael. He is cousin to the other complainant Christine Titus. They live at Etas area on Efate island.
3. On 10 May 2024, Mr Mael went home drunk and damaged several items of property including 2 large solar lights at his parents' home. His parents were so scared that they left and spent a night at their relative's house. Mr Mael also left and stayed the night at a different person's house (Charge 2).



4. On 11 May 2024, Mr Mael's parents returned home and cleaned up the house. Soon after, Mr Mael arrived still drunk with alcohol. He stayed only a short time and then left again. Then Christine arrived. When the parents told her what happened, she recalled that she had placed VT10,000 in her bag in her bedroom and went to check if the money was still there. It wasn't. They all knew at once that it was Mr Mael who took the money (Charge 3).
5. They went searching for Mr Mael and found him in a nearby yard. His mother Anne asked him if he took Christine's money. Mr Mael became angry, took a piece of timber and caused her to receive an oral threat to kill her when he said to her, "Yufala I kamaot bae mi sperem ded hem" ('You all get out of my way, I will stab her to death'). His actions caused his mother to fear for her life and safety. Mr Mael attempted to use the timber against his mother but a young man Vira Saniel intervened and removed the timber from Mr Mael's hand (Charge 1).
6. On 12 May 2024, when they woke up in the morning, they discovered that Mr Mael had also damaged a bundle of bananas that they had hung from the roof of their verandah, intending to eat the bananas once they had ripened. Mr Mael had used a knife to cut the bananas into pieces. His actions caused them to fear for their life and safety so they decided to lodge a complaint with the Police.

C. Sentence Start Point and Mitigation

7. The sentence start point is assessed having regard to the maximum sentences available, and the mitigating and aggravating factors of the offending.
8. The maximum penalty for the offence of threats to kill a person is 15 years imprisonment and for the offence of domestic violence is 5 years imprisonment and/or a fine not exceeding VT100,000. The maximum sentence for theft is 12 years imprisonment.
9. It is an aggravating factor of the offending that the threat to kill was made to a vulnerable, older woman as well as the gross breach of trust, the use of a piece of timber as a lethal weapon, and that part of the offending occurred in the complainants' home where they are entitled to be safe.
10. There are no mitigating aspects of the offending. It is no excuse that Mr Mael was under the influence of alcohol when he committed the offending nor that he was angry when asked if he had taken Christine's money.
11. The Prosecution submitted that a global sentence start point of 5 years imprisonment was appropriate, citing *Public Prosecutor v Kalotrip* [2022] VUSC 172 and *Tula v Public Prosecutor* [2023] VUCA 59. Defence counsel submitted that a lower starting point than in both cases should be adopted, given there was only one charge each of threat to kill and domestic violence in the present matter. He also cited *Public Prosecutor v Kalo*



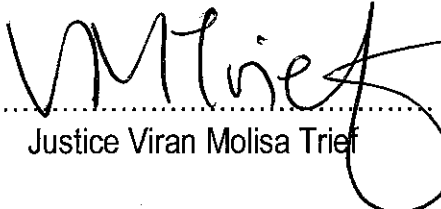
[2023] VUSC 164 and *Public Prosecutor v Malsrake* [2021] VUSC 343 and submitted that the appropriate global sentence start point is 1 year imprisonment.

12. The global sentence start point that I adopt, taking all matters into account, is 4 years imprisonment.
13. Mr Mael pleaded guilty at the first available opportunity. One third is deducted from the sentence start point.
14. Mr Mael is 23 years old, and has no prior convictions. Two months are deducted from the sentence start point for Mr Mael's personal factors.
15. Mr Mael has been held in custody since 23 May 2024, effectively 7 months imprisonment. Accordingly, a further 7 months is deducted from the sentence start point.

D. End Sentence

16. The sentencing principles applicable in this case are holding Mr Mael accountable for his conduct, to denounce the criminal conduct and emphasize public disapproval of such offending, to protect the community, and to deter him and others from acting in this manner in future.
17. Taking all of those matters into account, the end sentences imposed concurrently, commencing on 23 May 2024, are as follows:
 - a. Threat to kill (Charge 1) – 1 year 11 months imprisonment;
 - b. Domestic violence (Charge 2) – 9 months imprisonment; and
 - c. Theft (Charge 3) – 6 months imprisonment.
18. There will be no suspension of sentence. The offending is too serious and there are no exceptional circumstances to warrant suspension of sentence.
19. Mr Mael has 14 days to appeal against the sentence.

**DATED at Port Vila this 5th day of September 2024
BY THE COURT**


Justice Viran Molisa Trief

