

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

**Criminal
Case No. 24/1311 SC/CRML**

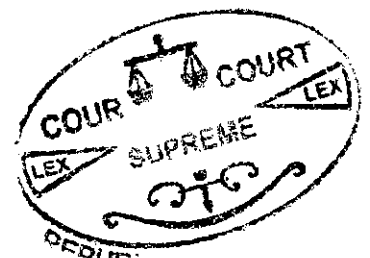
BETWEEN: Public Prosecutor

**AND: John Ialulu
Defendant**

Before: Justice Oliver A. Saksak
Counsel: Mr Simcha Blessing for Public Prosecutor
Mr Eric Molbaleh for the Defendant
Date of Plea: 4th June 2024
Date of Judgment: 16th August 2024

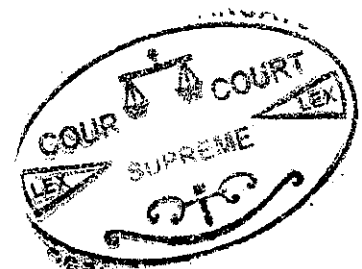
SENTENCE

1. John Ialulu (also known as Jean) pleaded guilty to one charge of unintentional harm causing death, section 108 (c) PCA [Cap 135] (Count 1) and to one charge of driving a vehicle without a valid driving licence, section 42 of the Road Traffic (Control) Act [Cap. 29]. And he is for sentence today.
2. On 14 April 2024 at Bethel Village, Tanna, the defendant drove a White Kia Bongo Truck No. TCT 2263 without a driver's licence.
3. 14th April 2024 was a Sunday. The driver of the truck had deposited the vehicle with the defendant for repairs. After fixing the truck, the defendant and his wife went into the truck and went to visit his wife's relatives at lauhnanan village. After the visit the defendant with his wife drove back to Lenakel. The deceased and his friends were walking on the road towards Lenakel. There were also other children walking on the road after a swim in the river
4. The defendant noticed the children walking downhill on the left side of the road downhill. The defendant's view was hampered by the slope and the children and he did not see the deceased



crossing the road from the left to the right side. The defendant hit the deceased and dragged him into the bushes some distance of 5.40 meters.

5. The deceased was rushed to hospital with severe cuts on his forehead and multiple fractured ribs and swollen left eye. He subsequently died due to his severe injuries
6. The defendant was arrested by the Police and questioned. He admitting hitting the deceased and causing his death.
7. The maximum penalty for unintentional harm causing death under section 108 (c) of the Penal Code Act is 5 years imprisonment. And driving without a driver's licence attracts the maximum penalty of a fine of VT 50,000 or imprisonment of 1 year or both.
8. This was a tragic accident. You may have been an experienced driver but your licence had expired and you did not have a renewed licence. You should not have been driving that day. You broke the law.
9. Further you said in your police statement that you drove at Gear 3 but did not say what speed you travelled. However the distance where the deceased's body was to the point of impact was 5.40 metres as seen from the sketch map. That indicates you drove at some speed down the slope and as such you could have easily seen what was ahead of you. Be that as it may, you have admitted responsibility for the death of the victim of your accident. The Court will punish you on your own guilty plea.
10. In assessing appropriate sentence I note the cases submitted by Mr Molbaleh such as Crc 77 of 2011 PP v Graham David, Crc 18/820 PP v Tom wells and Morrison v PP Crac 19/2671 (VUCA) for comparative purposed. I think those cases are distinguished from your case. Your case is further aggravated by the fact that you drove without a valid driver's licence.
11. Taking all those factors into account, it is my view a custodial sentence is appropriate and I adopt the start sentence of 4 years imprisonment for the charge in Count 1- unintentional harm causing



- death. And for driving without a license, (Count 2), I sentence you to a start sentence of 1 year imprisonment to be served concurrently with the 4 years sentence for the offence in Count 1.
12. In mitigation I deduct the full 1/3 for your guilty pleas reducing your total concurrent sentence down to 2 years and 8 months.
 13. Next, for the substantial custom reconciliation showing remorse and contrition together with your clear past criminal record and your personal history and other factors, I reduce your sentence by a further 8 months, leaving the balance of the sentence to be exactly 2 years imprisonment.
 14. Your end sentence shall be 2 years imprisonment. You are convicted and sentenced accordingly.
 15. I Order that your end sentence be suspended for a period of 2 years from the date hereof under section 57 of the Penal Code Act. This means you will not go to prison today. But you must remain offence free for this whole period. If you commit any other offences for which you would be charged and convicted, you will go to prison for 2 years.
 16. In addition, I sentence you to 100 hours of community work. You must report to the Probation Service within 72 hours for further direction in regard to this part of your sentence.
 17. That is the sentence of the Court for you today. You may appeal within 14 days against this sentence if you do not agree with it.

DATED at Port Vila this 16th day of August 2024

BY THE COURT

Hon. Oliver A. Saksak

Judge

