

PUBLIC PROSECUTOR

v

STEPHEN SARGINSON

Date of Plea: 20th August 2024

Coram: Hon. Chief Justice V. Lunabek

Counsel: C. Shem for the Public Prosecutor
C. Dehinavanua for the Defendant

Date of Sentence: 24 September 2024

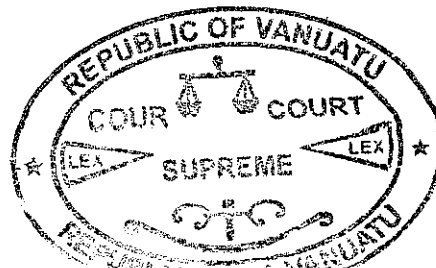
SENTENCE

I. Introduction

1. Mr Stephen Sarginson ("*Mr Sarginson*"), you appear today for sentence having being pleaded guilty to and convicted of the offences of:
 - Domestic Violence contrary to Sections 10(1) and 4 (1) of the Family Protection Act of 2008; and
 - Threats to kill, contrary to Sections 115 of the Penal Code Act [CAP. 135].

II. Facts

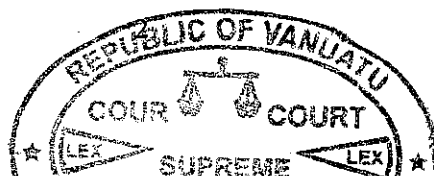
2. The complainant in this case is Mina Saling of Epi Island who resides at Anambourou area, Port Vila. She was 24 years old during the time of the offence. Mr Sarginson, you are the complainant's spouse and together you have 2 children and live together in a spousal relationship for 9 years. Before the incident, you both reside at Nambatu Lagoon Area. You are 49 years of age at the time of the offence.



3. The complainant stated that throughout your 9 years of defacto relationship she faced difficult times. In 2003, she travelled to Australia for seasonal works and she had an affair with one Mr. Frank Fred Obed.
4. She returned to Vanuatu on the 21st of March 2024 and at around 6am in the morning you took the children and went to Anambourou. You then asked her about the affair and she admitted the affair and also admitted that she was pregnant with a child.
5. You later returned to No. 2 Lagoon and came back again to Anambourou area and you found the complainant was talking on the phone with Mr Obed. You confronted her and she said Mr Obed talked to her regarding his vehicle documents and that she also talked to him asking him about her cards.
6. Upon that response you assaulted her 4 times all over her body with your hands and legs. You then instructed her to clean herself due to the blood as a result of temporary injuries sustained because of the assaults on her body.
7. You then sent a FB voice message to Mr Obed and stated to him the following words: "*Yu stap kam blong putum leg blong yu long airport ia, hemi last dei blong y utu. Mi mi katem neck blong man olsem animol mo bai mi shootum yu long masket. Bai yuk am karem coffin blong yu ko long Santo.*" Mr Obed responded by stating the following words: "*Yu wantem some yu se yu rabis man. From wanem yu kilim woman olsem. Yu no save kilim man?*".
8. After the incident you took the complainant and her suitcase and you both went back to No. 2 Lagoon. At Lagoon the complainant decided to return to Anambourou area and was later taken to the Vila Central Hospital (VCH). A report was made to confirm her pregnancy and on discharging her she was advised of the risk of miscarriage. You then took her from VCH after she was discharged.

III. Sentence Start Point

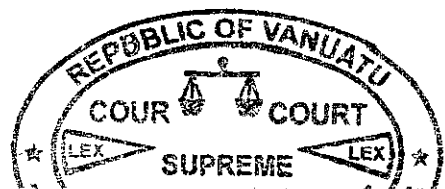
9. The offence of domestic violence, contrary to Sections 10(1) and 4(1) of the Family Protection Act carries a maximum sentence of 5 years imprisonment or a fine not exceeding VT100,000, or both.
10. The offence of threats to kill a person carries a maximum sentence of 15 years imprisonment.
11. I consider the maximum sentences together concurrently, the maximum sentence that is available is 15 years imprisonment.
12. There are no mitigating factors to the offending, but the following aggravating factors exist:
 - (a) There is a serious breach of trust. The complainant is your spouse and the mother of your two children, she will no longer trust or feel safe around you;
 - (b) The domestic violence assault was inflicted on the complainant (victim) when she was pregnant. She felt pain and discomfort and was admitted to the hospital;



- (c) The offence occurred in the presence of the children and other members of the complainant's family;
- (d) The offending involved the emotional exploitation of a vulnerable person being a female member and mother of two children.
13. The Prosecution refers and relies on the following cases: Public Prosecutor v Iakis [1994] VUSC 14; Public Prosecutor v Malres Kaloris, Criminal Case 2685 of 2021 (3 November 2021). The prosecution submits that a sentence start point of 5 years imprisonment for threats to kill a person and 2 years for the offence of act of domestic violence.
14. The defence refers and relies on the case of Public Prosecutor v Kalo [2023] VUSC 164. The defence submits that a concurrent sentence start point within the range of 1 – 2 years imprisonment will be appropriate and that the end sentence of imprisonment be suspended.
15. I take all the above matters into consideration, I set a sentence start point of this case of 3 years and 6 months imprisonment for threats to kill a person and 2 years imprisonment for the act of domestic violence and that they are concurrent to each other. This means that the sentence start point for this case overall is 3 years and 6 months imprisonment.

IV. Mitigating Factors

16. Mr Sarginson, you are 49 years old and you are a first-time offender with no previous conviction.
17. You are remorseful over your actions and you wished that you had not committed such offences. You regretted your actions. I accept that you are genuine.
18. You explained your offending because you are frustrated over learning that your wife is pregnant by another man and the time and money you spent on her and the children. You have also performed custom compensation with the complainant and her family. The complainant and her family accepted the custom compensation. The details of the custom compensation as set out below:
- 1) 1 pig worth VT25,000;
 - 2) 1 stampa kava VT8,000;
 - 3) 4 mats worth VT9,000;
 - 4) 40 yard calico worth VT3,000;
 - 5) 1 x 25kg bag manioc;
 - 6) 1 x 25kg bag taro;
 - 7) 10kg rice; and
 - 8) VT6,000 cash.
19. I give a reduction allowance of 6 months for your mitigating factors.
20. I give you a further reduction allowance of 33% for your early guilty pleas.



21. The balance of your sentence is reduced to 22 months imprisonment.

V. End Sentence

22. Your end sentence is 22 months ie. 1 year and 10 months imprisonment.

23. You were never remanded at the Correctional Services Facility for this offending.

24. But you were arrested and kept under the police custody for 24 hours (1 day). This will be deducted to your sentence.

25. The new balance of your sentence is 1 year 9 months and 29 days imprisonment, ie. 21 months and 29 days imprisonment.

26. I consider the nature, circumstances of the offending and your character as the offender, I decide and decline to suspend your imprisonment term of 1 year 9 months and 29 days. The custodial sentence is necessary for the following reasons:

- 1) It is to mark public disapproval of this type of offending against women and mothers of the children in this country;
- 2) It serves as punishment for the defendant of this offence;
- 3) It serves as a deterrent against you and other like-minded defendant in this type of offending in the future;
- 4) It serves as a protection against women as the vulnerable members in the society.

27. You are ordered to serve 1 year 9 months and 29 days imprisonment with immediate effect.

28. You have 14 days to appeal this sentence if you are unsatisfied with it.

DATED at Port Vila, this 24th day of September, 2024.

BY THE COURT

Hon. Chief Justice Vincent LUNABEK

