

PUBLIC PROSECUTOR
v
EDWARD ALMELE

Coram: *Hon. Chief Justice Vincent Lunabek*

Counsel: *K Massing for the State*
R T Willie for the Defendant

Date of Plea: *22 April 2024*

Date of Sentence: *26 April 2024*

SENTENCE

I. Introduction

1. Mr Edward Almele ("*Mr Almele*"), you appear today for sentence.
2. On 22nd April 2024, you pleaded guilty to one charge of Premeditated Intentional Homicide, contrary to Section 106(1)(b) of the Penal Code Act [CAP. 135] and was convicted on your own pleas and the admitted facts.

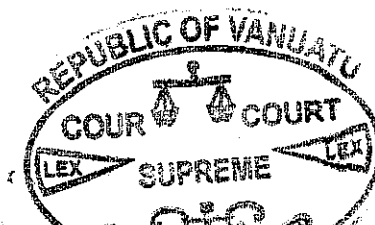
II. Facts

3. The deceased was your biological brother. You all live in Ankuru, at Big Bay bush area on the island of Santo. The deceased have children and a wife where you also have a wife and children.
4. The alleged offending is said to have occurred sometimes on the 16th of January 2024 during the morning hours at around 6am. On the date of the incident, the deceased and his daughters have decided to go down to Luganville town. You and your daughters and sons were standing and talking waiting for a vehicle to take you and your daughter Alvin Almele and her friend to go to town.
5. While you were waiting, you arrived at your house. At the front of your house, you took a riffle .22 loaded with bullets. You aimed at the deceased who was standing with his daughters and



sons. You fired the gun and the bullet struck the deceased on his right-side rib or chest. The deceased called out saying in his language "awo namate" in Bislama it means "awo me ded". Blood coming out from his body, as his sons and daughters witnessed the blood and shouting of their father. After the first shot, his daughters and sons went and tried to hold their father to help him, but they found out that he was already dead. They were sorry and crying, but you came and stood close to them and threatened to shoot them to death. You told them to leave the dead body of their father alone. You told them that you would shoot each one of them to death and have them laid beside their father's dead body.

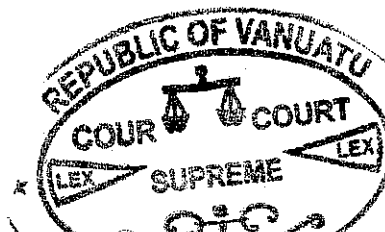
6. The deceased's daughters and sons seek refuge in the bush close by. While at the bush they heard the gun fired twice again. You shot the deceased two times again on his back and at the back of his head.
7. However, you did not settle, you went and look for your younger brother Jeffrey Almele to shoot and kill him also. You went and look for him at his residence but he had already left as he knew you would kill him with the gun. You then shot the security lights belonging to Jeffrey Almele.
8. When you returned, on your way you saw the deceased's wife. You pointed the gun at her and wanted to shoot her. It was one of your relatives that came over and then spoke to you and took you away. But before that, you did fire the gun towards her (deceased's wife). You fired the gun at the branches of the trees.
9. However, the matter was reported to the police that day. The police arrived at the crime scene and then arrested you. That is when the sons and daughters of the deceased came to see the dead body of their father which was laid inside his kitchen.
10. The police took the dead body of the deceased to the mortuary for autopsy. An autopsy was conducted on the deceased body on the 19th of January 2024. The autopsy report was also attached with the preliminary inquiry documents in the Magistrates Court at the time of the committal. That report was relied upon for the purpose of this brief of facts. The report revealed that the shooting was on the following area of the deceased's body:
 - a) Gunshot wound on the head;
 - b) Gunshot wound on the anterior chest; and
 - c) Gunshot wound on the posterior chest.
11. It was also revealed by the autopsy report that the cause of death of the deceased was a result of the gunshots on the body of the deceased.
12. After you were arrested, you were cautioned and interviewed where you admitted all the allegations made against you. You stated that you planned to kill the deceased and your other brother Jeffrey Almele. You also told your wife that you would kill your two brothers because of



the allegations of witchcraft on your son. You said the cause of the sick of your son was your two brothers, the deceased and Jeffrey Almele performing witchcraft on him.

III. Sentence Start Point

13. I will assess the sentence start point having regard to the maximum sentence available, the mitigating and aggravating features of the offending, and I will consider case authorities on the point with comparable cases (if any) for consistency purposes.
14. Here, the maximum sentence available is life imprisonment.
15. There are no personal mitigating factors to the offending.
16. The aggravating features present in this current case include:
 - a) There was a breach of trust – brother relationship;
 - b) The shooting or murder was committed in front the deceased's children (the children were standing and saw their deceased's father being shot and dead in front of them);
 - c) The serious injuries on the body of the deceased (shooting done three times);
 - d) There was threatening to use gun by you when the deceased children's wanted to help save the deceased;
 - e) There were threats and use of the gun (.22) (shooting) towards the wife of the deceased by you and you fired the gun at the branches of the trees;
 - f) There was fear or threats of violence that you caused the deceased family and everyone in the community at the time of the offending;
 - g) There was a weapon used (gun rifle .22);
 - h) There was public and barbaric execution of an innocent life (done in the public and village as a whole);
 - i) The act of homicide in this case in unprovoked. It is not a mitigating factor that Mr Edward Almele believed that the deceased and his younger brother Jeffrey Almele caused the sick of his son using witchcraft; and
 - j) The emotional harm caused to the family of the deceased and loved ones.



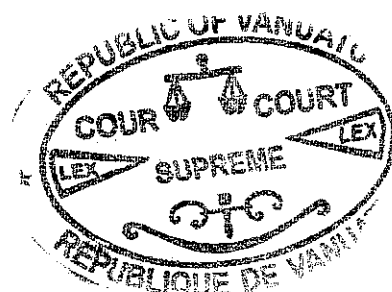
17. The factors set out above require a sentence start point of 30 years imprisonment based on *Tabi v Public Prosecutor* [2010] VUCA 40, where the defendant was charged with offending under Section 106(1)(b) of the Penal Code Act. In that case, the Court of Appeal, ruled that the sentence of the appellant, Mr Tabi, of 43 years and 7 months imprisonment was excessive and suggested that a starting point of 27 years imprisonment should be adopted in that case. In that case, the appellant (Mr Tabi) killed his wife, took her body and threw rubbish upon it. He then lit a fire and set it on the body.
18. The sentence start point of 30 years imprisonment is necessary to mark the gravity of the offending, to mark the disapproval of the community of this kind of offending, to serve as a deterrence for others, to punish the offender and to protect the society from such offending.

IV. Personal Mitigating Factors to the Defendant

19. In mitigation, you say, you are 38 years old. You are married with 3 children, and one of your children has eyes impairment why Mr Almele, you described as "*a man-made disability*".
20. You had no formal education. You managed to own a shop in your village. You owned kava gardens and raise cattle for commercial purposes. Your ambition is to ensure that your children have access to good education that you had never experienced in your life.
21. You stated you have kidney problems and you were hospitalized in 2016 for 4 months in the hospital. You are a first-time offender. Your son was sick. You and your wife took care of him since 2022. You took him to the hospital. The doctors were not able to diagnose him as they could not find anything wrong with your son. There was no remorse and contrition.
22. However, I am ready to give you a credit reduction for any mitigating factors to your offending of 12 months. Your sentence remaining balance is 29 years. I give a further credit reduction of 33% to reflect your early guilty plea. The balance of your remaining sentence is 20 years imprisonment.
23. I give you a further reduction of 12 months reflecting the custom compensation ceremony, your chief and community performed on your behalf to the wife and children of the deceased, and they accepted (a fully tusked pig). The further balance of your remaining sentence is 19 years imprisonment.

V. End Sentence

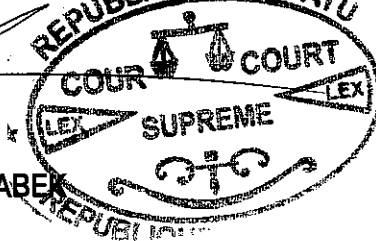
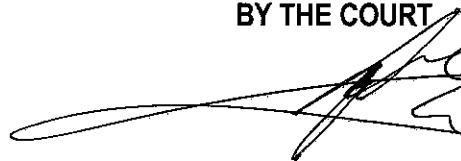
24. Your end sentence is 19 years imprisonment.



25. You were remanded in custody on 16 January 2024 and released on bail on 29 February 2024. You have already spent a month and 14 days in custody. That period will be deducted in your favour.
26. Your current sentence remaining balance is 18 years and 14 days imprisonment.
27. I consider but I could not suspend this imprisonment sentence. The nature and circumstances of this offending outweigh any mitigating features for suspension.
28. You are sentenced to 18 years and 14 days imprisonment with immediate effect.
29. You have 14 days to appeal this sentence if you are unsatisfied with it. The 14 days appeal starts on the date of this sentence.

DATED at Luganville, Santo, this 26th April, 2024.

BY THE COURT



Hon. Chief Justice Vincent LUNABEK