

**PUBLIC PROSECUTOR**

**v**

**JOE TOTO  
MICHEL KALO  
ALLAN KONMAWI  
RALPH LELE  
MANUEL KALONTAS**

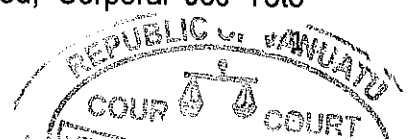
*Date:* 2 February 2024  
*Before:* Justice V.M. Trief  
*Counsel:* Public Prosecutor – Ms R.G. Simeon  
Defendants – Mr A. Bal

---

**SENTENCE**

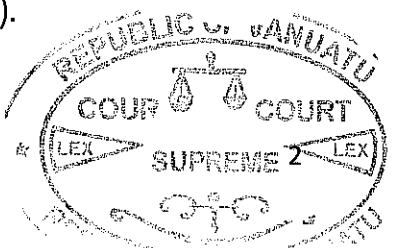
---

1. The Defendants Joe Toto, Ralph Lele and Manuel Kalontas pleaded guilty to intentional assault causing temporary injury contrary to para. 107(b) of the *Penal Code* [CAP. 135] (Charges 1, 6 and 13 respectively). The Defendants Michel Kalo and Allan Konmawi pleaded guilty to malicious damage to property contrary to s. 133 of the *Penal Code* (Charges 3 and 5 respectively). They are convicted on their own pleas and the admitted facts.
2. At all relevant times, the defendants were Police Officers who worked in different units within the Vanuatu Police Force on Santo, and the complainants were residents of Mataloi Village at Big Bay area on Santo.
3. On 17 June 2020, Police in Luganville, Santo received a report against one of the complainants Chief John Pune alleging assault, threats and arson in the Big Bay area. On the same date, Police officers Sergeant Berry Iakoli, Corporal Joe Toto, Police Constable Ian Mele, Police Constable Manuel Kalontas, Police Constable Kaltulang Kalorib and Police Constable Allan Konmawi attended at Mataloi Village at Big Bay to investigate the complaint.
4. The complainant Lilly Pune was at her house at Sugalato station at Mataloi Village when the Police officers arrived and asked if she knew John Pune. She denied that it was his house. The Police left and when they returned, Corporal Joe Toto

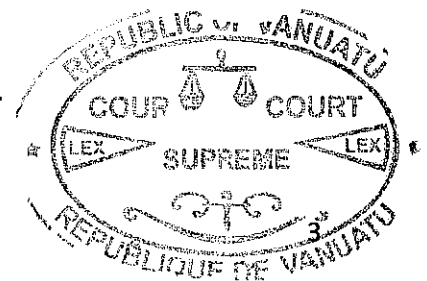


dragged Mrs Pune to the coconut plantation and assaulted her by hitting her with a dry coconut leaf branch. Mrs Pune was medically examined on 23 June 2020 and her injuries were reported as including headache and slight dizziness, blunt trauma to head, slight swelling on head (face) (haematoma), slight haematoma on both eyes, pain on neck, slight swelling on both forearms and haematoma on lower lumbar region. Mr Toto admitted his offending to the Police (Charge 1).

5. When the Police returned to Luganville, they were informed of further reports of threats and other allegations of offending by Mr Pune and others at Big Bay. The Deputy Commander of Crimes Investigation Department ('CID') issued an operation plan called the 'Big Bay Operation Plan' for a group of 15 officers to attend at Mataloi village on 19 June 2020 to take statements and arrest suspects.
6. Between 7 and 8am on 19 June 2020, at Valui station at Mataloi village, Big Bay, Police officers arrested complainant Jerry Garae and put him into a red double cabin vehicle. They drove into Mr Garae's yard and he was handcuffed and left inside the vehicle. Police Constable Michel Kalo held a "la mass" and used it to break the door of Mr Garae's house (Charge 3).
7. Also on that day, Police Constable Allan Konmawi broke complainant Maria Jerry's cups, plates and containers inside her kitchen (Charge 5).
8. Between 7 and 9 am on 19 June 2020 at Mataloi village, Big Bay, complainant Pastor Abraham Akilin was at his house with his wife who was 7 months pregnant and one of his daughters. A group of uniformed Police officers arrived in a land cruiser-type vehicle. One of the Police officers pointed at him and said, "That's him." When he saw some of the officers getting out of the vehicle, he was scared and ran behind his house. The Police officers chased him and when he fell down, they grabbed him and started to assault him. Police Constable Ralph Lele hit him in the head and in the chest with a truncheon, causing him to bleed from his head. Despite his pleas to stop, the assault continued while he was handcuffed.
9. Pastor Akilin sustained injuries to his body as a result of the assault. These were reported following his medical examination on 22 June 2020 as 10cm already sutured laceration at the top of the head, right eye, face and forehead swelling, visible bruising and tender to touch, swollen left shoulder, tender to touch and restricted range of motion, no visible wounds to the back. The injuries were noted to be consistent with physical assault to the head. Mr Lele admitted his offending to the Police (Charge 6).
10. Between 9 and 10 am on 19 June 2020 at Mataloi village, Big Bay, complainant John Pune was at the Mataloi Bible School when two Police officers approached him. They arrested him and then assaulted him in the head and ribs. Police Constable Manuel Kalontas slapped Mr Pune and punched him in the ribs. Mr Kalontas admitted his offending to the Police (Charge 13).
11. The maximum sentences prescribed in the *Penal Code* are:



- a. Intentional assault causing temporary injury (para. 107(b)) – 5 years imprisonment; and
  - b. Malicious damage to property (s. 133, *Penal Code* and subs. 36(3), *Interpretation Act* [CAP. 132]) – VT5,000 fine or 1 year imprisonment or both.
12. There is no mitigating aspect of the offending.
  13. The offending by Mr Toto is aggravated by the following:
    - Breach of trust (Police officer-community member);
    - The offending was unprovoked;
    - The use of a dry coconut leaf branch as a weapon targeting the most vulnerable part of the complainant's body, her head; and
    - The physical and mental effects on the complainant.
  14. The factors above require a sentence start point for Mr Toto of 18 months imprisonment.
  15. The offending by Mr Lele is aggravated by the following:
    - Breach of trust (Police officer-community member);
    - The offending was unprovoked;
    - Joint enterprise – the defendant was in a group when they committed the offending;
    - The use of a truncheon as a weapon targeting the most vulnerable part of the complainant's body, his head; and
    - The extent of the injuries caused to the complainant.
  16. The factors above require a sentence start point for Mr Lele of 2 years imprisonment.
  17. The offending by Mr Kalontas is aggravated by the following:
    - Breach of trust (Police officer-community member);
    - The offending was unprovoked;
    - Joint enterprise – the defendant was in a group when they committed the offending; and
    - The physical and mental effects on the complainant.

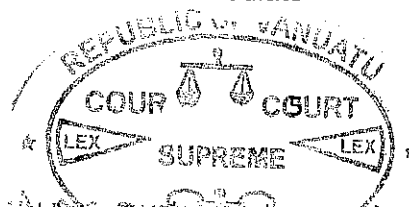


18. The factors above require a sentence start point for Mr Kalontas of 12 months imprisonment.
19. The offending by Mr Kalo and Mr Konmawi is aggravated by the following:
  - Breach of trust (Police officer-community member);
  - The offending was unprovoked;
  - Joint enterprise – the defendants were in a group when they committed these offences; and
  - The loss caused to the complainants.
20. The factors above require a sentence start point for Mr Kalo and Mr Konmawi of 6 months imprisonment.
21. Given the strength of the Prosecution case, 25% is deducted from the sentence start points for the Defendants' guilty pleas which have saved time and the need for the complainants to give evidence.
22. Mr Toto is 39 years old. He is married and has 4 children. Two are at secondary school and two are in primary school. According to the Police Commander North, he is a hard-working officer. He has the support of his family and chief. He has no previous convictions.
23. He performed a custom reconciliation ceremony with the Tabwemasana Council of Chiefs of Santo. Then a custom reconciliation ceremony was facilitated with the complainants involving VT700,000, 60 pieces of 12-foot iron roofing, a pig, kava, mats and local food crops, which was accepted. He is remorseful. A further 25% is deducted from the sentence start point for his personal factors.
24. Mr Lele is 29 years old. He is in a *de facto* relationship and has a 2-year old daughter. According to the Police Commander North, he is a hard-working officer. He has the support of his family and chief. He has no previous convictions.
25. He performed a custom reconciliation ceremony with the Tabwemasana Council of Chiefs of Santo. Then a custom reconciliation ceremony was facilitated with the complainants involving VT700,000 cash, 60 pieces of 12-foot iron roofing, a pig, kava, mats and local food crops, which was accepted. He is remorseful. A further 25% is deducted from the sentence start point for his personal factors.
26. Mr Kalontas is 26 years old. He is in a *de facto* relationship and has one child. He is a Year 13 leaver. According to the Police Commander North, he is a hard-working officer. He has the support of his family and chief. He has no previous convictions.
27. He performed a custom reconciliation ceremony with the Tabwemasana Council of Chiefs of Santo. Then a custom reconciliation ceremony was facilitated with the



complainants involving VT700,000 cash, 60 pieces of 12-foot iron roofing, a pig, kava, mats and local food crops, which was accepted. He is remorseful. A further 25% is deducted from the sentence start point for his personal factors.

28. Mr Kalo is 38 years old. He is in a *de facto* relationship and has a daughter who will be starting kindergarten this year. According to the Police Commander North, he is a hard-working officer. He has the support of his family and chief. He has no previous convictions.
29. He performed a custom reconciliation ceremony with the Tabwemasana Council of Chiefs of Santo. Then a custom reconciliation ceremony was facilitated with the complainants involving VT700,000 cash, 60 pieces of 12-foot iron roofing, a pig, kava, mats and local food crops, which was accepted. He is remorseful. A further 25% is deducted from the sentence start point for his personal factors.
30. Mr Konmawi is 27 years old. He is single. According to the Police Commander North, he is a hard-working officer. He has the support of his relatives and chief. He has no previous convictions.
31. He performed a custom reconciliation ceremony with the Tabwemasana Council of Chiefs of Santo. Then a custom reconciliation ceremony was facilitated with the complainants involving VT700,000 cash, 60 pieces of 12-foot iron roofing, a pig, kava, mats and local food crops, which was accepted. He is remorseful. A further 25% is deducted from the sentence start point for his personal factors.
32. Taking all matters into account, the end sentences imposed are as follows:
  - a) Joe Toto: Intentional assault causing temporary injury (Charge 1)  
9 months imprisonment;
  - b) Ralph Lele: Intentional assault causing temporary injury (Charge 6)  
1 year imprisonment;
  - c) Manuel Kalontas: Intentional assault causing temporary injury (Charge 13)  
6 months imprisonment;
  - d) Michel Kalo: Malicious damage to property (Charge 3)  
3 months imprisonment; and
  - e) Allan Konmawi: Malicious damage to property (Charge 5)  
3 months imprisonment.
33. The end sentences reflect the need to denounce such criminal conduct, to deter the defendants and others from such offending, and to hold the defendants accountable for their criminal conduct.
34. The Court has a discretion under s. 57 of the *Penal Code* to suspend all or part of the sentence where it is not appropriate to make an offender suffer immediate



imprisonment "... (i) in view of the circumstances; and (ii) in particular the nature of the crime; and (iii) the character of the offender."

35. The nature of the offending counts against suspension of the sentences. The defendants' previous clean records, their compliance with their bail conditions, staying offence-free in the 4 years since their offending, and work and family responsibilities favour suspension of sentence. I therefore exercise my discretion under s. 57 of the *Penal Code* to suspend the sentences for 1 year. Each defendant is warned that if he is convicted of any offence in the next 1 year, that he will be taken into custody and serve his sentence of imprisonment as well as the penalty imposed for the further offending.
36. In addition, each defendant is to complete 60 hours of community work.
37. The defendants have 14 days to appeal the sentence.

**DATED at Luganville this 2<sup>nd</sup> day of February 2024  
BY THE COURT**

  
Justice Viran Molisa Trief

