

**PUBLIC PROSECUTOR**

v

**RONA WOKA**

Date of Plea: 19 November 2024  
Date of Sentence: 31 January 2025  
Before: Justice M A MacKenzie  
Counsel: Mr J Aru (Holding papers for Ms G Kanegai) for the Public Prosecutor  
Ms K Karu for the Defendant

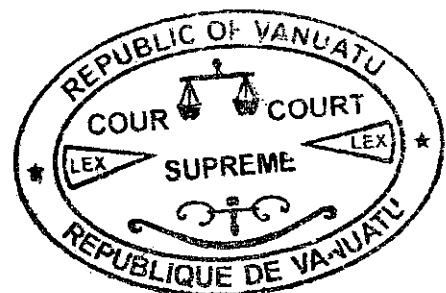
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**SENTENCE**

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**Introduction**

1. Mr Rona Woka, you appear for sentence having pleaded guilty to the following charges:
  - a. Unlawful entry of a dwelling house contrary to s 143(1) of the Penal Code [CAP135]
  - b. Threat to kill contrary to s 115 of the Penal Code [CAP135]
  
2. The maximum penalties for these offences are:
  - a. Unlawful entry of a dwelling house – 20 years imprisonment. That is because it is used for human habitation.
  - b. Threat to kill -15 years imprisonment.



## The Facts

3. On 20 August 2024, you entered the female victim's home at Teouma. At the time, she was at home with her three children. Her partner is an RSE worker and was overseas. You threatened to kill the victim. You held a piece of wood across her neck and said, "Bai mi kilim ded yu wetem ol pikini blong yu". You said you would kill her and her children. The victim feared for her life and safety, as well as her children's.
4. When spoken to by police under caution, you admitted the offending.

## Sentencing purposes/principles

5. The sentence I impose must hold you accountable and must denounce and deter your conduct. The sentence should ensure you take responsibility for your actions, and help you to rehabilitate. It must also be generally consistent.

## Approach to sentence

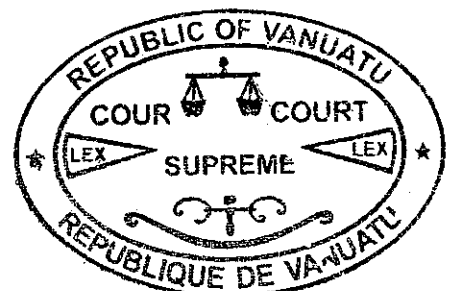
6. Sentencing involves 2 separate steps; *Jimmy Philip v Public Prosecutor* [2020] VUCA 40, which applied *Moses v R* [2020] NZCA 296.

## Starting point

7. The first step is to set a starting point to reflect the aggravating and mitigating features of the offending, and with reference to the maximum penalties for the offences.
8. While the lead charge is unlawful entry of a dwelling house, I will set a starting point on a global basis to reflect the totality of the offending. That is because here the offences are interconnected and form part of the overall transaction: *Kalfau v Public Prosecutor* [1990] VUCA 9.
9. The aggravating factors of the offending overall are:

## Unlawful entry of a dwelling house

- a. The victims were vulnerable. The adult victim's partner was not present, and the children were vulnerable because of their age.
- b. There was some form of planning or premeditation because you were in possession of a makeshift weapon, a piece of wood.
- c. As noted, you used a piece of wood as a makeshift weapon, to instil fear and to intimidate the adult victim and her children.

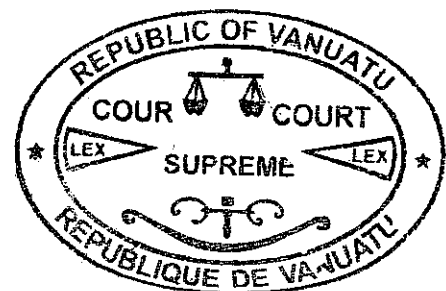


## Threat to kill

- d. You threatened to kill both the adult victim and her children.
- e. The targeting of the adult victim's neck. At the time you made the threat to kill, you held the piece of wood to the adult victim's neck, a vulnerable part of the body, so you had the ability to immediately put the threat into effect. This can only have been to instil fear in the victims.

## Harm

- f. The harm caused to the victims, emotionally and psychologically arising from both your unwanted presence in the house and threatening to kill them can only be significant. It must have been a terrifying incident.
10. There are no mitigating features of the offending itself.
11. Both counsel submit that the appropriate starting point globally is 5 years imprisonment. In that regard, counsel have cited *Public Prosecutor v Afika* [2024] VUSC 276, as a useful comparator case. As the Court of Appeal said in *Kalfau*, sentencing is not an exact science, and the circumstances will vary from case to case. No two cases are ever the same. However, I agree with counsel that *Afika* provides assistance in setting the starting point. First, there is a review of sentence starting points for both dwelling house burglaries and threat to kill. Second, *Afika* involved both an unlawful entry into a dwelling house and a threat to kill, and a weapon was involved.
12. Notably though, the factual background in *Afika* was more serious, as Mr Afika entered the dwelling in the middle of the night and was in possession of a loaded firearm. Therefore, the global starting point of 6 years imprisonment in *Afika* is too high for the present offending. Then there is *Public Prosecutor v John* [2018] VUSC 74, where there was a starting point of 4 years imprisonment for a dwelling house burglary. In *John*, the defendant entered a bush kitchen at 4pm in an intoxicated state. He assaulted the victim and threatened to kill her dead. There was no weapon.
13. The unlawful entry in the present case is significantly aggravated by the vulnerability of the victims and the use of a makeshift weapon, to ensure that the victims knew you were serious, and had the ability to carry out the threat to kill. The targeting of the neck is a significant factor. It can only be described as a terrifying and highly distressing incident. Taking the aggravating factors I have referred to, along with the cases just discussed, I adopt a global starting point of 5 years imprisonment to reflect the totality of the offending. That is because, comparatively, the offending sits between *Afika* and *John*, in terms of seriousness.

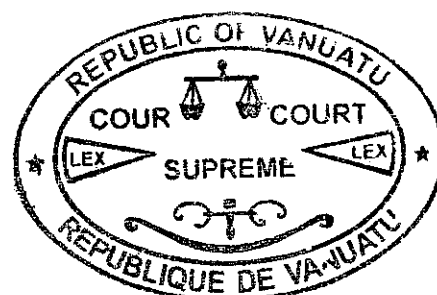


## Guilty plea and personal factors

14. You pleaded guilty at an early opportunity. You are entitled to a one-third discount for your guilty plea. While the case against you was strong because of your admissions, the plea has saved the victims the trauma of having to give evidence and re live what happened. That reduces the sentence by 20 months.
15. There is a presentence report. Your age is not certain, as you do not have any identity papers. The estimate of your age ranges from 30-44 years. You are from Tanna Island You have the support of your father and your chief. Mrs Karu submits that you are remorseful. The best expression of remorse is your admission to police and the early guilty plea so I accept there is genuine remorse. The sentence is reduced by 4 months (or 7 %) for these factors.

## End Sentence

16. The end sentence is 3 years imprisonment for the charge of unlawful entry of a dwelling house. There is to be a concurrent sentence of 2 years imprisonment on the charge of threat to kill.
17. There is another issue to be considered. On 17 January 2025 you were sentenced to a term of imprisonment of 1 year 3 months 2 weeks imprisonment for a dwelling house burglary, with a concurrent sentence of 1 year imprisonment for theft. While the sentence was suspended, you have remained in custody pending sentencing in this case. Ideally, you should have been sentenced at the same time for both sets of offending. The Public Prosecutor should have appreciated this and drawn it to the Court's attention.
18. Your counsel responsibly recognises that the circumstances of the present offending warrant an immediate sentence of imprisonment. Under s 57 of the Penal Code, there is a discretion to suspend the sentence. I must take into account the circumstances, the nature of the offending and your character.
19. I acknowledge that you are remorseful. On the other hand, this is serious offending. You unlawfully entered the victims' home and threatened to kill them. The adult victim was scared. There is a pattern emerging of you unlawfully entering residential dwellings. There is a need for accountability, deterrence and also denunciation. A stern response is required. These factors point away from suspension of the sentence. After weighing and balancing all the relevant factors, the sentence will not be suspended. While I acknowledge the positive factors, the nature and circumstances of the offending mean that that the sentence should not be suspended. Accountability, deterrence and denunciation require a term of imprisonment in this case.



20. The sentence of 3 years imprisonment is to start immediately. For this offending, you were remanded in custody on 26 August 2024. However, that period of presentence detention has already been taken into account by Trief J in sentencing you on 17 January 2025. To take it into account again, would be double counting. Accordingly, the sentence is back dated to commence from 17 January 2025.
21. The effect of this sentence is to render suspension of the sentence imposed on 17 January 2025 redundant. Therefore, the prosecutor should urgently seek activation of the prison sentence imposed on 17 January 2025. That may require a totality adjustment ( downwards ) to ensure the sentence overall is not crushing but that will be a matter for Trief J.
22. You have 14 days to appeal against the sentence.

DATED at Port Vila this 31st day of January 2025  
BY THE COURT

