

PUBLIC PROSECUTOR v SONGI MICHEL

Date of Trial: 21, 22 and 23 May 2025

Before: Hon. Chief Justice Vincent Lunabek

Counsel: J Aru for the Public Prosecutor
C Dehinavanua for the Defendant

Date of Verdict: 26 May 2025

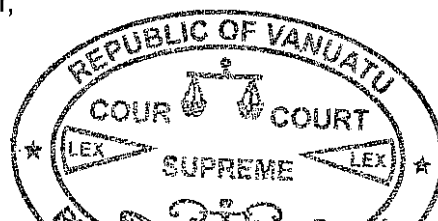
JUDGMENT ON VERDICT

I. Introduction

1. This is the judgment in this case. The accused, Songi Michel, is charged with the following offences:
 - (a) Domestic Violence, contrary to Section 10(1) and Section 4(1)(e) of the Family Protection Act No. 28 of 2008 (Count 1);
 - (b) Unlawful possession of cannabis, contrary to Section 2(62) of the Dangerous Drugs Act [CAP. 12] (Count 2); and
 - (c) Domestic Violence, contrary to Section 10(1) and 4(1)(b) of the Family Protection Act No. 28 of 2008 (Count 3).

II. Particulars of offences

2. The offences are particularised as follows:
 - (i) In Count 1, Songi Michel, you intended to commit an act of domestic violence around 24 April 2024, at Lumbukuti, Tongoa, against your small mother Joyceline Kalotap, when you behaved in an offensive manner when you told her to cut her neck or head and told her to have sexual intercourse with her;



- (ii) In Count 2, Songi Michel, at about 25 April 2024, at Lumbukuti, Tongoa, you had in your possession cannabis substances with a net weight of 5.5 grams, you knew that it is against the law to have in your possession cannabis substances;
 - (iii) In Count 3, Songi Michel, at about May 2024, at Stade area, Port Vila, you intended to commit an act of domestic violence against your father, Michel Taripoa, when you harassed and intimidated him when you said rubbish talks to him.
3. The Accused, Songi Michel, pleaded not guilty to each of the offences. The trial proceeded before me on this basis.

III. Elements of offences

4. The following are the essential elements of the offences that the prosecution must prove before the Court can convict the accused, Songi Michel:

(a) Domestic Violence

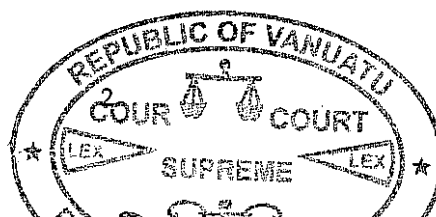
- (i) The Accused committed an act of Domestic Violence;
- (ii) The act of domestic violence was made against a member of his family.

(b) Possession of cannabis substances

- (i) The accused had in his possession, a material plant;
- (ii) The plant material was cannabis substances;
- (iii) The accused knew he had cannabis in his possession.

IV. The onus or burden of proof

5. This is a criminal trial. As in every criminal trial, the law is that the prosecution has the duty to prove each and all essential elements of the offences beyond a reasonable doubt against the accused. The accused is not required to prove his innocence. If the accused has to give evidence himself or call other person to give evidence on his behalf, I must consider his evidence and/or the evidence of his witnesses on equal basis as any evidence of the prosecution.
6. The onus or burden of proving guilt of the accused person beyond a reasonable doubt rests upon the prosecution and it never shifts. The prosecution must prove beyond reasonable doubt that the accused person is guilty of the offences which he is charged before he can be convicted. If I have a doubt and the doubt is a reasonable doubt as to whether the accused committed the offences of Domestic Violence and unlawful possession of cannabis as charged against him, it is my duty to give the accused the benefit of the doubt and to find him not guilty on each of the charges.



7. Proof beyond a reasonable doubt has been achieved when I as a judge of fact feel sure of the guilt of the accused. It is that degree of proof which convinces the mind and satisfies the conscience so that I as a conscientious judge of fact feel bound or impelled to act upon it. Conversely, when the evidence I have heard leave me as a responsible judge of fact with some lingering or nagging doubt with respect to proof of some essential elements of the offences with which the accused is charged so that I am unable to say to myself that the prosecution has proven the guilt of the accused beyond a reasonable doubt as I have defined these words, then, it is my duty to acquit the accused. If I believe the accused and he did not commit any of the offences or what he did lacks some essential elements of the offences or if the evidence of the accused either standing alone or taking together with all the other evidence leave me in a state of reasonable doubt I must acquit him. But if upon consideration of all of the evidence taken together at the end of the trial, the arguments of counsel and the charges I am satisfied that the accused has been proven guilty beyond a reasonable doubt as I have defined these words above, it is my duty to convict the accused. I must say that it is rarely possible to prove anything with absolute certainty. So the proof or the burden of proof on the prosecution is only to prove guilt beyond a reasonable doubt. When I speak of reasonable doubt I use the words in their ordinary natural meaning, not as a legal term having some special connotation. A reasonable doubt is an honest and fair doubt based on reason and common sense. It is a real doubt, not an imaginary or fanciful doubt which might be conceived by an irresponsible judge of fact to avoid his or her plain duty.

8. This is emphasized by Section 8 of the Penal Code Act [CAP. 135] in these terms:

- "8 (1) No person shall be convicted of any criminal offence unless the prosecution shall prove his guilt according to the law beyond reasonable doubt by means of evidence properly admitted; the determination of proof of guilt beyond reasonable doubt shall exclude consideration of any possibility which is merely fanciful or frivolous;*
- (2) In determining whether a person has committed a criminal offence, the court shall consider the particular circumstances of the case and shall not be legally bound to infer that he intended or foresaw the natural or probable consequences of his actions;*
- (3) If the prosecution has not proved the guilt of the accused, he shall be deemed to be innocent of the charge and shall be acquitted forthwith."*

V. **The Prosecution case**

9. The prosecution case is that on or about 24 April 2024, at Lumbukuti Village, Tongoa, the accused committed an act of domestic violence against his small mother, Joyceline Kalotap when he behaved in an offensive manner in that he threatened to cut her neck or head and to have sexual intercourse with her.

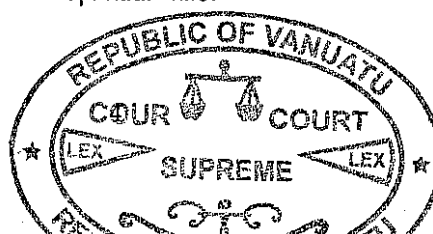
10. It is also the prosecution case that on 25 April 2024, the accused had in his possession cannabis plant materials with a net weight of 5.5 grams.



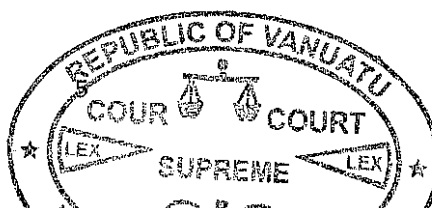
11. It is further the prosecution case that in May 2024, at Stade Area, Port Vila, Efate, the accused committed an act of domestic violence against his biological father, Michel Taripoa, when the accused harassed and intimidated him when he abused him verbally, threatened to kill him, told his father, he was a rapist, a stupid man, a poison man and that he had a naked photograph of his father in his mobile phone and that he will expose it.

VI. Prosecution Evidence

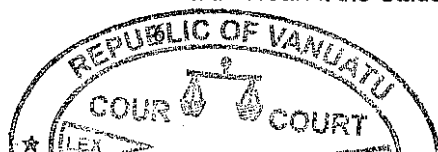
12. Joyceline Kalotap is the first prosecution witness. She gave evidence to the following effect. She is from Lumbukuti Village, Tongoa and she lives there at the house of Michel Taripoa. Michel Taripoa is the cousin brother of her husband. She called Michel Taripoa her tawi, the children of Michel Taripoa called her mother. On 28 April 2024, she was in her room. The door of her room was open. A piece of calico was hanging as a screen on her door. She was in her room on that date when she heard the accused, Songi Michel, was talking to his father (Michel Taripoa). The accused asked his father to purchase the battery of the radio belonging to his small mother (Joyceline Kalotap). The accused's daddy told him that after he would listen to the radio he would take it back to his small mother Joyceline Kalotap. The accused then walked back to his small mama's room, tore the calico that was hanging at her door. The accused looked into her room and told her (small mother) *"you were crossed because of your radio?"* she answered *"no"*. the accused told her *"you no enough blo me katem neck or head blo you"*. She was afraid of the accused because of the accused's threats to her. The accused also told her *"you stap bei mi no fuckem ass blo you"*.
13. She said she was not happy with the actions of the accused toward her and she was afraid of the accused. She said she was a mother of 3 children and her husband had died in March 2024. She was still mourning the death of her husband when the accused did this to her. She ran to the main door and came outside. She followed the road and cried. Chief Charley Tinabua, the chief of Lumbukuti Village took her back to her house. It was not right and proper for the children to swear at their parents or small mama like the accused did in this case.
14. In cross-examination, she confirmed her evidence in chief. She denied she ever heard the accused telling a story about a spiritual knife. In her re-calling, she said after the death of her husband, the accused made a drawing on the veranda of the house. The drawing was about the map of the village with a road and the names of nasaras in the village.
15. She denied that the accused, Songi Michel, ever explained what he drew on the wall of the house to the members of the family. She denied that the accused explained the meaning of the drawing when she was washing the plates.
16. She repeated her evidence that she was not aware about the spiritual knife. She denied that when the Accused wanted to cut her neck or head, the Accused referred to a spiritual knife he drew on the wall of the house. She maintained that when the Accused threatened to cut her neck or head, the Accused did not refer to a spiritual knife.



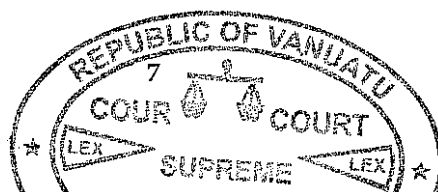
17. The Accused swore at her in Nakanamang language. She said the Accused told her: "*you stap mi no fuckem ass blo you*". She said it in Nakanamang language to this effect: "*Kum doko ma unda soka nabissima*". She denied that what she said the Accused told her could have different meaning. It meant that the Accused "*Hemi talem fuck ia*".
18. She insisted that the word "soka" means the Accused swore at her. She was afraid of the Accused and she run away.
19. She never heard about the work "so-oka". On 24 April 2024, the Accused told her: "*you stap me no fuckem ass blo you*".
20. Joyceline Kalotap was re-examined. She explained that the word "*nabissima*" in Nakanamang language means "*ass blo you*".
21. What the Accused told her was to this effect "*kum doko ma unda soka nabissima*" means the Accused swore at her.
22. Michel Taripoa is the second prosecution witness. He gives evidence to this effect. He is 58 years old. He comes from Lumbukuti Village, Tongoa Island; he had 3 children. The accused, Songi Michel, is his third child.
23. On April 2024, he lived with the accused, Songi Michel, the small mama, Joyceline Kalotap, and his wife at his house at Lumbukuti Village. There are 4 bedrooms at his house. The first bedroom is the bedroom of the accused, Songi Michel. A child of 9 – 10 years old (Arnold Kiri) shared that room with the accused. The child attended school during the daytime of the week.
24. The witness, Mr Michel Taripoa, and his wife occupied the bedroom No. 2. The small mama, Joyceline Kalotap, occupies the bedroom No. 3. Joyceline Kalotap is the wife of his cousin brother. His cousin brother passed away in March 2024. The mother of the witness occupies the bedroom No. 4. He said his 2 other children did not live with him at his house at Lumbukuti as one of the two had already married and lived with her husband at Onesua area, Efate. The other lives at Stade area, Port Vila, Efate.
25. In the morning of 24 April 2024, he was at home. He was brushing his teeth. The accused, Songi Michel, asked him to purchase the batteries for a radio as he wanted to listen to that radio. That radio belongs to the small mama, Joyceline Kalotap. The witness accepted to go and purchase the batteries of the radio. He told the accused to listen to the radio and sometime to return the radio back to the small mama, Joyceline Kalotap.
26. The accused, Songi Michel, was not happy. He was cross. The accused, then, asked him whether the small mama sent him to take back the radio to her. Knowing how the accused will react, the witness answered the accused saying, no, and that he will purchase the batteries of the radio, otherwise the accused will be cross. He said, the accused, Songi Michel, was cross every time the witness talked to him and tried to reason him.



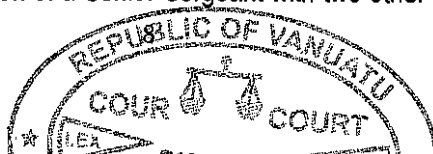
27. At that point in time, when the accused, Songi Michel, questioned his father as to whether the small mama requested her radio back, the accused was standing at the door of the room of the small mama, Joyceline Kalotap. Joyceline Kalotap was in her room. He said he was outside and looked inside the house through the veranda.
28. A calico was hanging at the door of the small mama. He saw that the accused, Songi Michel, tore the calico and swore at his small mama, Joyceline Kalotap while standing at the entrance of the door of her room. He then realised that the small mama, Joyceline Kalotap, was inside her room. The accused swore at his small mama saying "yu wantem mi fuckem you?". The accused spoke loudly when he swore at his small mother.
29. At that point, the accused, Songi Michel, was holding the top of the door of his small mama from the outside. He saw the small mama ran and passed under the hand of the accused and went outside. The small mama run outside and went crying on the road outside. He said it is not normal that his children swore at their small mama saying "you wantem me fuckem you?".
30. On 24 April 2024, he did not see and did not know that any member of his family entered the accused's room.
31. The accused, Songi Michel, is a big boy and an adult. If he wanted to put anything in his room, he is mature enough to do so. The witness said the accused controlled what he put in his room and how he used his room. In April 2024, he said he could not enter into the accused's room. The reason was that when the witness and any member of his family who lived at the house tried to speak to the accused in his room, the accused was cross. The accused looked at them with anger. Even if one called the accused for taking his food.
32. At the time, the accused swore at the small mama, nobody else was at the house. He did not looked for or checked on the small mama. The witness said he was focussed on purchasing the batteries for the radio. He went to the shop after shop, they were closed. He thought of going to the shop at Panita Village. But he said he thought about the accused and he returned at the house in order to inform the accused that he will be going to Panita Village to purchase the batteries and it will take sometime.
33. On the road, he saw the police truck coming, two police officers were in the vehicle, Ronphil Taliban and Jack Willie. The police informed him that they were going to take the accused. He informed the two police officers that the accused was angry and had a knife with him. They needed to be careful. He allowed the police officers to go to his house and talk to the accused at his room. The police officers went and took the accused with them. He was there when the police officers took the accused. He said the accused told him that he will follow the police officers. He said he told the accused that he will follow him with the police officers.
34. The police took the accused to Port Vila, Efate, by boat through Emua Wharf in May 2024. He followed the accused to Port Vila. He resides at Stade Area, Port Vila.
35. The accused was released on bail and resided with him at Stade area. The accused stayed with the witness and the accused's mother at the Stade area. At the Stade area, the accused did not



- behave normally towards them. The accused talked angrily towards them (the witness, the mother of the accused and the big brother of the accused). He said they did not respond to the accused's aggressiveness. They felt sorry for him.
36. The accused talked angrily to him and told him very strong words or abusive words. The accused called him a rapist, told him to check blood as he (the accused) is the blood of the witness while the big brother of the accused is not the blood of the witness. The accused told him that he was stupid, he was not educated, and that he (accused) will kill him (witness) and other members of the family (including his mother and big brother).
37. He felt very bad when the accused verbally used abusive strong words or swore at him. He said when the accused was released on bail, the accused did not respect the conditions of his bail. The accused breached these conditions. The accused went out during the night and came back in the morning. He said this behaviour from the accused caused him (witness) to suspect that the accused went outside to smoke cannabis. He said he said that because when the accused returned home in the morning, the accused behaved angrily towards them at home.
38. He said he was not happy for what the accused did but he felt sorry for him. He said the accused was a good man before he used marijuana (cannabis). He observed that when the accused used marijuana, it caused him to behave angrily towards them at the house. He said he was not happy about the actions of the accused towards him and his family. He said he was also afraid of the accused because he (accused) was using cannabis and could kill him (witness) anytime. He said that because the accused smoke marijuana and that marijuana controlled him (the accused) and he could kill him anytime. He repeated that the actions and the strong and abusive words the accused used towards him in May 2024, indicated that the accused did not respect him as his father.
39. He said he saw that when the accused was on bail and went out on the nights and came back in the next morning, the accused's conditions were worsened.
40. Mr Michel Taripoa was cross-examined. He denied that the accused ever talked to him at the house about a spiritual knife. He denied that he heard the accused said he will use a spiritual knife to kill others.
41. At the death of his cousin brother on March 2024, there were lots of people at his house who came and share condolences with him and the family. It was just for a day.
42. He explained that when people came to his house, they stayed at the verandah. People cannot enter the rooms of the house. People respected him as a chief and they only stayed at the verandah. After the burial, close family members stayed and those who stayed slept at the veranda of his house and they did not have the right to enter the rooms.
43. To the hypothetical questions as to whether a man will go into the accused's room and put in something, he answered no because he did not know. They were busy at the time.



44. On his cross-examination and his re-call, about the defence case, witness Michel Taripoa, said he did not know about a spiritual knife.
45. He said in March 2024, he saw the Accused, Songi Michel, made some drawing but he did not see a knife. He thought it was a play/play drawing so he was not concerned about it. He did not know about the drawing of a spiritual knife.
46. One day he came back from the gardens and the Accused told him to see something. He turned to see that thing which was like a play/play drawing.
47. The Accused did not explain to him the drawing. He did not ask the accused about the drawing because he said he knew that people who smoked marijuana make little drawings like that. This caused him not wanting to take much concern about them.
48. He did not see a knife. He saw the drawing was like the boundary of the village and the names of the nasaras in the village. He thought it was a play/play thing only.
49. He saw the picture that the Accused drew. He did not see a spiritual knife. He said if the drawing was about something important about the house that he should be concerned but he said it was not the case.
50. He denied the drawing was about the spiritual knife. He said he heard about the spiritual knife for the first time in the court. He never heard about the spiritual knife before.
51. The accused used the expression "*cutem neck*" of the family members when he was cross or angry. The Accused did not use any knife.
52. He did not know whether the expressions used by the accused about "*cutting the neck*" were only parable.
53. He did not hear that the accused threatened Joyceline Kalotap to cut her neck but he heard that the accused swore at her saying "*you wantem me fuckem you?*". The accused sworn at his small mother (Joyceline Kalotap) in his local language or word in a particular sound which was abusive towards his small mother. That word "*soka*" was used by the accused in a particular sound which was abusive word towards his small mother Joyceline.
54. The other expression is "*sooka*" which means "*you go*". You can call out a man with that word. He maintained that the accused did not say "*sooka*" to Joyceline at that time.
55. Police Corporal Jack Willie is the next prosecution witness. He is from Epi Island; 25 years old, he is a corporal; he works with the Police Force for 5 years ago; he works at Tongoa Island for 3 years since. He lives at Pele Village, Tongoa. As a police officer, he and others work to maintain peace in the communities and they provide security on Tongoa Island. They investigate criminal complaints. He was involved in the investigations of assaults and domestic violence. He works in Tongoa under the supervision of a Senior Sergeant with two other corporal officers. He gave



accounts of how he and other police officers do their work on Tongoa Island, the communities, villages he is directly responsible including Lumbukuti, the village where the incidents the subject of this case occurred. He is responsible for the southern part of Tongoa Island.

56. He knows the accused before he became a police officer as they played soccer together.
57. As to his involvement to this case, he received a report following what the accused, Songi Michel, did and he and other police officer attended the scene. The report he received was about domestic violence. Corporal Ronphil Taliban assisted him to attend the scene.
58. On their way to the accused's house, they met, Mr Michel Taripoa, the accused's father who told them that he was going to the shop. Mr Michel Taripoa informed them that they needed to be careful as the accused had a knife with him.
59. They went to the accused's house at Lumbukuti. They called him they saw the accused pushing his head through a window, they called him to come outside and meet them. The accused came outside. They arrested the accused, put him in the truck and drove him to Morua's Police Station. They detained him there.
60. The next day (25 April 2024) they went back to the accused's house and searched. The reason for doing so was because the father of the accused informed them that the accused was smoking cannabis. So on 25 April 2024, he went back to the accused's house with Corporal Ronphil Taliban and Mr Michel Taripoa, the accused's father. Mr Michel Taripoa took them directly to the accused's room.
61. They searched the accused's room, they found cannabis and pieces of cannabis covered up in a white paper and they also found pieces of cannabis contained in a black bag. They took the cannabis materials to Morua Police Station. Then, they travelled with the accused and the cannabis materials on board the boat across to Emua Wharf on Efate Island and to Port Vila.
62. There was no door at the accused's room. There was just a calico hanging at the door. There was just a bed in that room. There was no people in that room when they searched it.
63. Police officer Jack Willie was cross-examined. He was questioned and he denied that any person moved in and out of that room. He also denied that the plant materials cannabis could belong to someone else. He answered he did not know. He said that he had information from the father of the accused that the accused, Songi Michel, smoked cannabis substances causing Mr Michel Taripoa (father of the accused) to ask police officers to search the accused's room for that purpose.
64. Police officer Ronphil Taliban was the last prosecution witness. He is 32 years old. He is a Corporal officer. He serves in the Police Force for 7 years. He served the Tongoa communities as a police officer for 4 years. He lives at Kurumabe Village. As a police officer, he investigates the criminal complaints, arrests suspects and conduct patrol in the villages on Tongoa Island. He investigates complaints about possession of cannabis and rape cases. He is responsible for Euta, Pele, Waraliew, Lupalea and Ravenga villages.



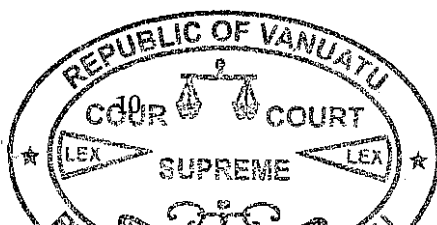
65. He gave detailed accounts of what he and police officer Jack Willie did on 24 and 25 April 2024. He received a report about intentional assault. There was no mention about the suspect but that an incident occurred at Lumbukuti Village. The father of the accused (Michel Taripoa) stopped them on the road, told them to be careful when approaching the accused, Songi Michel, as he might have a knife with him.
66. They went to the accused's house, the door of the accused's room was open. They called on the accused. The accused pushed his head through the window of the room. He told the accused to come and see him outside. The accused came outside. They searched him and arrested him. They took him to Morua Police Station and detained him there.
67. They went back to the accused's house and searched because the father of the accused told them that the accused smoked cannabis substances. He searched the accused's room with police officer Jack Willie.
68. Inside the accused's room, there is a bed and a table. There is an entrance to the room and a main entrance to enter the house. There was no one in the room when they searched the room. They found cannabis substances therein and took them to the police Station at Morua.
69. Police officer Ronphil Taliban was cross-examined and he confirmed his evidence in chief.

VII. The Defence case

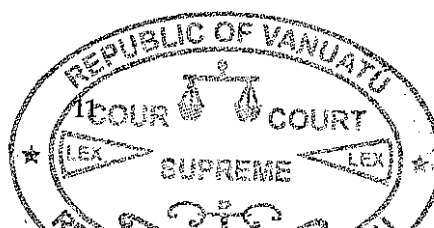
70. The defence case is that the accused, Songi Michel, denied he committed the acts of domestic violence against his small mama, Joyceline Kalotap, on 24 April 2024 at Lumbukuti Village, Tongoa Island. These acts were parable statements. His small mama did not understand (Count 1).
71. He also denied that he committed the offence of unlawful possession of cannabis substances. The cannabis substances do not belong to him (Count 2).
72. He finally denied that he committed the acts of domestic violence against his father, Michel Taripoa, at Stade Area, Port Vila, Efate, in the month of May 2024. These acts were also parable statements and his father did not understand them (Count 3).
73. The defendant elected to give evidence in his defence.

VIII. Defence evidence

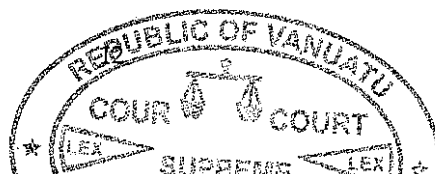
74. Songi Michel gave evidence to the following effect. He is 29 years old. He is from Lumbukuti Village, Tongoa. He lives with his father and other family members at Lumbukuti Village.



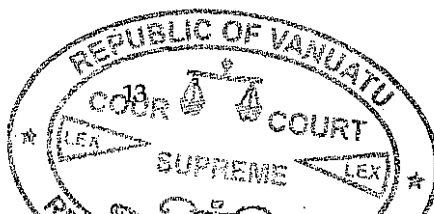
75. In March 2024, he was at Lumbukuti Village as they took the dead body of his small daddy, the husband of Joyceline Kalotap, from Efate to Lumbukuti Village, Tongoa. They prepared food for the death in their house at Lumbukuti which is inside the small nasara of Lumbukuti Village. There were a lot of people at the time of burial of the dead body.
76. When people came, the family members came to the house. The others only stayed outside.
77. There were 4 rooms in their house and 2 verandas. Some close members of his family like the children of the deceased came into his room. He has a room in their house. When he was not there, some members of his family used that room. He said he knew this because when he arrived at Lumbukuti Village from Vila in March 2024, members of his family who used his room, moved from that room to other rooms of the house.
78. He said at the time of the death of his small papa, one of his small daddys and son used his room. Others who followed them came and used the room.
79. There was no door to his room. Only a piece of calico was hanging at the door. Any man can move in and out of his room.
80. If a man came into his room and put something in there, he would not know. There were lots of things in his room that belong to the other members of the family, such as, bags, table. There were things on top of the table such as cartons and exercise books of the boy who lived in that room with him.
81. Some things of the other members of his family are in his room. Those members of his family are his small brother, Arnold Riki, his small papa, Stephen Kaloris of South Epi, a sister (Maela) and the children of the deceased such as David.
82. On 24 April 2024, he listened to the radio. He listened to the awareness made by the State Law Office and the Malvatumauri Council of Chiefs about the Referendum. As he was still listening to the radio, the batteries went out at the time and his father was ready to go out with the truck. He took the radio, walked outside and came to see his father. He asked if his father could purchase the battery of the radio. His father's name is Michel Taripoa.
83. His father talked angrily to him telling him to return the radio back to his small mother, Joyceline Kalotap. He told his father that he had asked his small mother to use the radio. Why his small mother could not come to him directly if she wanted the radio back.
84. He, then, walked toward his small mother's (Joyceline Kalotap) room to talk to her. When he opened the calico that was hanging at the door, the calico fell down as they used a cloth bin to hang it.
85. He said he told his small mother (Joyceline Kalotap) that he was listening to the awareness that the State Law Office and the Malvatumauri Council of Chiefs did about the Referendum. He said these words in his local language.



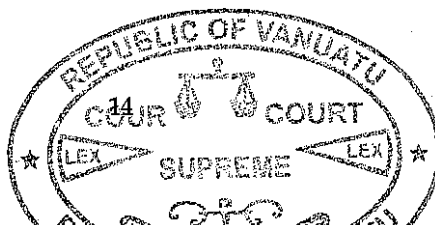
86. He said he told his small mother that all the days of the last week, he saw that some late nights, she went inside the room of his father and mother. His mother was in Port Vila. But that he was not interested to talk about why she went in their room. Then, he said he told his small mother: *"you wantem mi cutem neck blong you long knife blo mi we me drowem istap lo wall?"*.
87. He described the knife as the custom governance of the village. He explained that his father told him stories when he was a small boy. He said he made research through other custom chiefs and through internet about the work of missionaries who came to Tongoa Island. That is why he believed that that knife he was talking about was the custom governance.
88. He said he continued to tell his small mother (Joyceline Kalotap) *"you wantem mi kickim ass blo you you aot lo house?"*. He said he told his small mother of these in his local language.
89. He said when he tried to put back the calico on her door, her small mother ran come outside passing underneath his hand, sorry, she did not run but she walked passed. And when she was outside, he said his father told his small mother to run. He said he did not understand why but he said his father might hear that he told his small mother *"you wantem mi kickim ass blo you out lo house?"*.
90. The knife he said he drew was on the wall of the verandah. He has a picture of that knife with his solicitor.
91. To the question whether his small mother (Joyceline Kalotap) understood the meaning of the knife he drew on the wall, he said, when he explained that knife to the members of his family, Joyceline Kalotap, also was there at the verandah. He said he explained it loud and he knew that she heard the explanation. Because he drew that picture in the month of March 2024 and his small mother also was there. He said after the mourning of the dead of his small daddy, some family members returned to their houses, others stayed and he told them about the work the missionaries did.
92. In May 2024, he was in Port Vila, Efate. He was in Port Vila to attend the Court. He stayed at Stade area with his family and other family members. In May 2024, he tried to explain to his father about the statements he made to his small mother (Joyceline Kalotap) in April 2024 at Lumbukuti, Tongoa.
93. He said he told his father that that knife was not a physical knife but it was a spiritual knife. He used that knife which is the custom governance which was the statement of God, the missionaries used to kill men in order to be safe (have a good life).
94. He, then, said he asked his father again as to why his father and big brother did not support him. And that if he was not the child of his father (Michel Taripoa) it is better that his father told him of that so that he will no longer mention.
95. He said the support he referred to was about the knife. And it is good for them to go through blood test. The reason being that his father was readily against him.



96. He did not believe that a father would be against his child like that. It is better for him and his brother to go through blood test. Because his father treated his brother better than himself. He is happy because he knew about the way he will follow with that knife.
97. He was ready to take that knife and gave it to the Ombudsman and the State Law Office so that they would investigate and prosecute before the Court of law.
98. He will take the knife to the Ombudsman to kill the people with it. So, he said, now he killed everyone with that statement. But he said he was already disturbed but he would continue to talk about the knife because it was the talk of God which was that knife.
99. The accused, Songi Michel, was cross-examined. In April 2024, he slept in his room at Lumbukuti, Tongoa. The house is his father's.
100. That room is his room but it is open to any member of his family. He did not agree that he controlled that room.
101. He confirmed there were 4 bedrooms in the house. The members of the family lived in the other rooms. The members of the family arrived at the death of his small papa in March 2024.
102. In April 2024, after some family members left the house, the room is still opened for any member of the family.
103. He did not know who put the cannabis substances in his room.
104. He denied the evidence of his father that he did not allow people to come into his room.
105. He denied he was angry when his father told him to return back the radio to his small mother (Joyceline Kalotap).
106. He denied he felt bad when his small mother wanted back her radio. He admitted he felt bad when his small mother did not come to him directly but passed through his father; and he felt bad because his small mother went into the room of his father and mother in the late nights. His mother was in Port Vila at the time. He felt back because his small mother did not talk to him directly.
107. He denied he was angry with his small mother. He accepted that he went and stood at the entrance door of the room of his small mother.
108. He denied he was angry when he broke the calico hanging at the door of his small mother. He opened the calico and it fell down.
109. He was asked that he made these actions before he told his small mother to cut her neck. He admitted saying yes with the spiritual knife. He said he did not say spiritual knife but he said he meant spiritual knife.



110. He was questioned that his small mother never heard about the statement on the spiritual knife. He said she was there when he explained it to the members of his family.
111. He admitted that when he stood at the entrance of the small mother's door, he did not say spiritual knife. He said he told her "*you wantem mi cutem neck blo yu wetem knife ... we me drawem lo wall?*"
112. He was asked and he admitted he added more to his statements.
113. He was asked if he wanted to change the answers he gave in his evidence. He accepted saying yes. He was asked that he wanted to change his evidence because he knew he was telling lies. He said no.
114. He accepted in April 2024, he talked to his father about the battery of the radio.
115. He was asked and he denied he stood at the entrance door of his small mother because he wanted to cut her neck.
116. He denied that he was angry when his small mother walked under his hand and went outside. He said his small mother ran because his father told her to run. He did not know whether his small mother run because she was afraid of the statement he made to her to "*cut her neck*". He did not know if she was afraid because he was standing at the entrance of the door to her room which caused her to be afraid. He said he did not block the entrance to her room; he was trying to hang the calico at her door.
117. He denied he was cross when his small mother ran out of her room. He was asked he swore at his small mother saying "*you wantem mi fuckem ass blo you?*" He said no. he did not ask her sex.
118. He denied he was angry when he told his small mother that he will cut her neck. He said he smiled at her when he made these statements to her.
119. He denied that he controlled over his room. In April 2024, not only his family members but anyone could go to his room he said. He said there was no rule about the use of his room. He said he allowed those who smoked cannabis to access his room. He did not control his room.
120. In May 2024, he was with his father at Stade Area, Port Vila, Efate. He liked to do research on the custom governance. He accepted he knew more than his father about the research he made about the custom governance. His father stopped him to talk about the custom governance. He stopped him to listen to the radio as it made noise. When he was at Tongoa Island, his father asked him to go back to Vila and purchase a land in Vila.
121. In May 2024, he said he did not like when his father stopped him talking about the custom governance. He denied he was cross. He denied he threatened to kill his father.



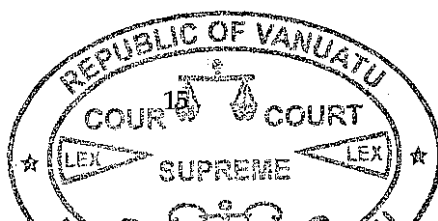
122. He denied he called his father rapist; he denied he called his father a stupid man; he never tried to kill his father.
123. He said his father did not understand what he was saying. He denied he told his father that he was not educated. He denied that his father felt bad when he said their things to him.
124. In April 2024, he denied that his small mother was afraid and felt bad as he did not ask her sex.
125. In May 2024, he was trying to explain things to his father but that his father did not understand him.
126. He was asked and he denied he was lying.

IX. Discussion: Findings of facts and credibility

127. As a Judge of fact, I saw the witnesses and heard their evidence. I also observed their demeanour in the witness box. I consider the evidence of the witnesses through their oral testimonies, statements and exhibits. I heard, read and considered arguments, and submissions of counsel of which I am greatly assisted.
128. The following facts are agreed between the parties in a Memorandum of agreed matters dated 10 March 2025:
 - (a) Michel Taripoa is the Accused's father;
 - (b) Joyceline Kalotap is a member of the Accused's family. The Accused refers to her as his "small mami";
 - (c) In April 2024, the Accused, Michel Taripoa and Joyceline Kalotap all usually resided at Lumbukuti Village on Tongoa in the same house;

Tongoa incidents

- (d) The incidents giving rise to this matter occurred sometimes between April 24th, 2024, to April 28th, at Lumbukuti Village, Tongoa;
- (e) A radio belonging to Joyceline was the subject of a discussion between the Accused and his father Michel Taripoa;
- (f) Michel Taripoa advised the accused that the radio should be returned to Joyceline. This created a momentary tension;
- (g) Police were requested to maintain peace. Police arrived at the scene the following day;



- (h) Police officer Jack Willie and Police officer Ronphil Taliban were invited into the house by Michel Taripoa;
- (i) Police officer Jack Willie and police officer Ronphil Taliban went inside one of the rooms in the house and discovered a white paper containing dried plant materials. They suspected these material to be cannabis;
- (j) The materials were seized and exhibited. The exhibit had a total net weight of 5.5 grams;
- (k) The suspected material were confirmed to be cannabis (see VPF Forensic Section – Examination of illegal drugs – Exhibit P2

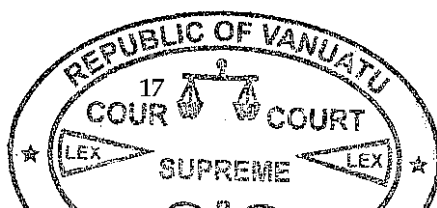
Efate Incidents

- (l) The incident giving rise to this matter occurred sometimes between April 29th, 2024, to May 13th 2024, in Port Vila, Efate;
- (m) The accused was arrested on Tongoa and escorted to Port Vila;
- (n) The accused was released on bail by the Magistrate's Court. The Accused then resided with Michel Taripoa at Stade Area, Port Vila;
- (o) During this period, the Accused, Songi Michel, and his father, Michel Taripoa, have had moments of disagreements.

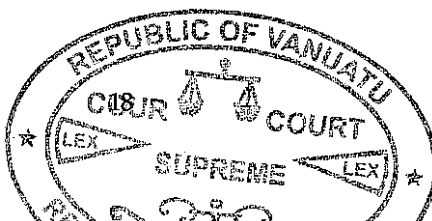
129. Joyceline Kalotap is related to the Accused as his small mother. Around April 2024, she was in the house at Lumbukuti. She was in her room in that house. She was alone in that room at that time. She heard that the accused, Songi Michel, and his father, Michel Taripoa, were talking about the battery of the radio. The radio is her radio. The accused stood at the entrance of her room. He broke the calico hanging at the door of her room. She was afraid, the accused threatened to cut off her neck or head. She was afraid, she ran outside. She also said that the accused swore at her saying: "*you stap be mi no fuckem ass blong you ye!*". She said her husband had just passed away in March 2024. She was still mourning the death of her husband. It was not normal that the Accused will insult his parents including her as his small mother.
130. Joyceline confirmed in cross-examination that she never heard a story by the accused, Songi Michel, about a spiritual knife. She said the accused never talked about a spiritual knife to the other members of the family. Joyceline maintained her evidence in chief that the Accused threatened to cut her neck or head and he told her to have sex with her. She was afraid of the Accused. She ran away and cried outside on the road.
131. Joyceline Kalotap is an honest and reliable witness.
132. Michel Taripoa is the father of the accused, Songi Michel. In April 2024, he lived with the accused, the mother of the Accused, Joyceline Kalotap and her children at his house at Lumbukuti Village,



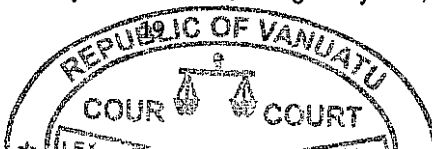
- Tongoa. The house had 4 bedrooms. The first bedroom is allocated and is for the accused, Songi Michel.
133. On 24 April 2024, the accused asked him to purchase the battery of the radio. The radio is for the Accused's small mother. He told the accused that after listening to the radio he should give it back to his small mother. The accused was not happy as he (accused) asked his small mother to use the radio but she did not come back to him directly if she wanted the return of the radio.
 134. The accused walked directly towards the room of his small mother and stood at the entrance of her room. He saw the accused tore the calico hanging at his small mother's door. He heard the accused swore at his small mother (Joyceline Kalotap) "*yu wantem mi fuckem you?*". Joyceline ran outside. She was afraid. He heard that she was crying on the road outside.
 135. The accused had a room for himself. The accused had control over his room. When the accused was in his room, no one could go inside, even when they call the accused for food, they must be far enough. In April 2024, he did not know who else again has access to the accused's room.
 136. On 24 April 2024, he met the two police officers (Jack Willie and Ronphil Taliban) and he showed them the Accused's room. He informed the police officers to be careful as the Accused might have a knife and that he (the accused) was consuming cannabis substances and was under the influence of cannabis substances.
 137. In May 2024, he followed the Accused to Port Vila after his arrest by the Police officers. In Port Vila, when the Accused was on bail, he lived at Stade Area with him (Michel Taripoa), the Accused's mother and the Accused's brother.
 138. In Port Vila, the Accused conducted himself wild towards them. The Accused was always angry with them. The Accused talked angrily to them.
 139. The Accused called him "*rapist*", he called him "*stupid man*", he called him "*a man of no education*". The Accused was consuming marijuana (cannabis substances) and was under the influence of the illegal drugs and he could kill him anytime. The witness said he was not happy with the Accused. He was afraid of the Accused and his actions and conduct towards him (Taripoa) and the members of his family.
 140. In cross-examination, Michel Taripoa said the Accused never discussed anything about a spiritual knife. He did not know what a spiritual knife is. The accused never discussed with him about a spiritual knife to kill another man. He admitted that in March 2024, he saw some little drawing from the Accused on the wall of the veranda of his house. He did not see a spiritual knife. He saw the drawings of the boundary of Lumbukuti Village and the names of the nasaras of the village. He saw the drawings like the play/play and he was not concerned about the drawings.
 141. He agreed that there were lots of people who attended the death of Joyceline's husband. These people never went into the rooms of the house and they never went into the Accused's room.



142. The evidence of Michel Taripoa is consistent with the evidence of Joyceline Kalotap and corroborates it substantively. Michel Taripoa's evidence is also consistent with the evidence of the two (2) police officers (Jack Willie and Ronphil Taliban). The Court believes this witness' testimonies and he is a reliable witness.
143. Police officer Jack Willie gave evidence that he received a report about the incident involving the Accused, Songi Michel. The father of the Accused assisted them by showing the room of the Accused. The Accused was alone in his room when he and the other police officer arrested him on 24 April 2024. The father of the Accused specifically informed them that the accused smoked and was under the influence of cannabis substances and so after they arrested the Accused and detained him at Morua Police Station the next day (25 April 2024) they went and searched the room of the Accused. They found cannabis substances weighing 5.5 grams. They seized and exhibited these cannabis substances. They were tested and they confirmed to be of cannabis substances.
144. Police officer Ronphil Taliban assisted police officer Jack Willie. Officer Ronphil's evidence was consistent with that of police officer Jack Willie.
145. Both police officers say that on 25 April 2024, when they searched the room of the Accused, there was no one in that room. Officer Ronphil said he did not ask Michel Taripoa if other people have access to the Accused's room and that whether the cannabis substances found could belong to anyone. The two police officers gave honest and reliable witness testimonies.
146. As to the evidence of the Accused, Songi Michel, I remind myself that although he is not obliged to give evidence, he elected to do so. By doing so, the Accused did not assume any burden or onus of proof. It is for the prosecution as a matter of law to prove the charges against the Accused beyond reasonable doubt. When, the Court assess the Accused's evidence, the Court assesses it in the like manner the Court assesses the evidence of the prosecution witnesses.
147. The Accused confirm that in March 2024, he arrived at Lumbukuti Village, Tongoa with the dead body of the husband of his small mother, Joyceline Kalotap. The mourning happened in the small nasara where the house is. The members of the family came and stayed in the house.
148. Some members of his family used his room (small papa, smol boy, another brother of his). There was no door to his room. A calico was hanging at his door. He did not know if people put things in his room as there are lots of things.
149. As to allegations relating to Joyceline Kalotap, on 24 April 2024, the Accused confirmed that he used the radio of Joyceline. He asked his father, Michel Taripoa, to purchase the battery of the radio. His father told him to return the radio back to his small mother, Joyceline Kalotap. The Accused responded why his small mother did not talk to him directly.
150. He confirmed he walked to the room of his small mother. He went and stood at the entrance of his small mother's door. The calico which was hanging at the door fell down.



151. The Accused said he told his small mother (Joyceline) "*you wantem mi cutem neck or head blo you wetem knife*".
152. He confirmed the knife is not the physical knife but a spiritual knife. He defined the knife as custom governance.
153. The Accused admitted that he told his small mother (Joyceline) "*you wantem mi kickim ass blo you out lo house?*". The Accused told the Court that his father, Michel Taripoa, told Joyceline to run.
154. As to the May 2024 incident, he was with his father, his mother and brother at the Stade Area, Port Vila, Efate. There, the Accused confirmed he was trying to explain to his father about what he said he told his small mother (Joyceline) about in April 2024.
155. He said the knife he referred to is a spiritual knife, not a physical knife. He said he used the knife about custom governance.
156. The accused questioned his father to check/test the blood because his father treated him badly as compared to his brother.
157. He said he will take the knife to the Ombudsman and State Law Office to investigate and prosecute before the Courts.
158. The Accused said he will take the knife and give it to the Ombudsman to kill people with.
159. In cross-examination, he confirmed that his room was open to anyone about the incidents of April 2024 at Lumbukuti, Tongoa.
160. The Accused admitted that in April 2024, he was not happy about his small mother, Joyceline Kalotap. The Accused gave the reasons that first, his small mother did not talk to him directly about the return of the radio instead of talking to his father, and the second, that his small mother went inside the room of his father and mother during the late nights.
161. In his evidence in chief, he never used the expression spiritual knife and that he never said it was a drawing. He said he referred to drawing in his cross-examination.
162. The accused admitted that he wanted to change his evidence. The Accused admitted that he stood at the entrance of the door of his small mother (Joyceline).
163. He said he did not swear at his small mother. He said he was smiling when he said these things to his small mother. It is noted that in his evidence in chief, he did not say that he was smiling when he said these things to his small mother. He denied he was angry at his small mother.
164. As to the incidents of 24 April 2024 involving Joyceline Kalotap, the Court accepted the evidence of Joyceline that the Accused threatened to cut her neck or head. The Accused was cross at the time for the two reasons admitted by the Accused, being firstly that, Joyceline passed through

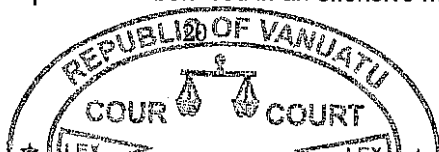


his father, Michel Taripoa, to return the radio back to her instead of going directly to him; the second reason was that during some late nights in April 2024, he saw Joyceline going into the room of his father and mother. The threats caused Joyceline to be afraid of her safety; she ran outside and cried on the road.

165. The Court also accepts the evidence of Joyceline that the Accused swore at her saying "*you stap bei mi no fuckem ass blo you*". This part of Joyceline's evidence was consistent and confirmed by the testimony of Michel Taripoa.
166. The Court rejects the evidence of the Accused in relation to the April incidents in Lumbukuti Village, Tongoa.
167. As to incidents involving possession of cannabis, he confirmed his room is open to anyone. He did not stop anyone who smoked cannabis substances. There was no rule to stop anyone to enter his room. He confirmed he was kind to everyone. He said he allowed those using cannabis substances to use his room in April 2024.
168. As to May incidents in Port Vila, the Accused confirmed that he did not like and he was not happy with his father when his father stopped him to talk about custom governance. He said his father did not understand what happened.
169. He said his father was afraid of him but he denied that he threatened to kill him. He denied he called his father "*rapist*"; he denied he called his father "*stupid*"; he denied he called his father "*not educated*".
170. As to the May incidents in Port Vila, it is a fact and accepted by the Court that the Accused, Songi Michel, did not like and was not happy with his father, Michel Taripoa, when he stopped him to talk about custom governance. It is inferred and accepted as a fact that the action of the father to stop him talking about the custom governance causes the Accused to be angered or cross against his father.
171. The Court accepts the evidence of Michel Taripoa that the Accused threatened to kill anyone of them living at Stade Area, Port Vila. The Court accepts as a fact that the Accused, because he was not happy with his father, called him "*rapist*"; "*stupid*" and "*not educated*".
172. The Court rejects the evidence of the Accused in relation to the May incidents in Port Vila.

X. Law and Its Application

173. In the present case, the Accused, Songi Michel, is charged with the following offences:
 - In Count 1 – Domestic Violence, contrary to Section 10(1) and 4(1)(e) of the Family Protection Act No. 28 of 2008. It is particularised that the Accused intended to commit an act of domestic violence around 24 April 2024, at Lumbukuti Village, Tongoa, against his small mother, Joyceline Kalotap when he behaved in an offensive manner when he told her to cut



her neck or head and he swore at her to the effect that "you stap bei mi no fuckem ass blo you";

- In Count 2 , unlawful possession of cannabis, contrary to Section 2(62) of the Dangerous Drugs Act [CAP. 12]. It is particularised that the Accused, Songi Michel, on or about 25 April 2024, at Lumbukuti Village, Tongoa, had in his possession cannabis substances with a net weight of 5.5 grams; and the Accused knew that it is against the law to have in his possession cannabis substances.
- In Count 3, Domestic Violence, contrary to Sections 10(1) and 4(1)(b) of the Family Protection Act No. 28 of 2008. It is particularised that the Accused, Songi Michel, on or about May 2024, at Stade Area, Port Vila, Efate, intended to commit an act of domestic violence against his father, Michel Taripoa, when he harassed and intimidated him when he said rubbish talks to him.

174. The prosecution has to prove beyond reasonable doubt the essential elements of each of the offences:

- Domestic Violence

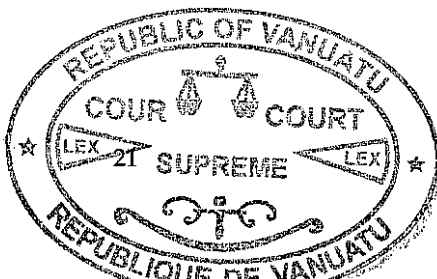
- (i) The Accused committed an act of Domestic Violence on 24 April 2024 against Joyceline Kalotap; and on May 2024 against his father, Michel Taripoa;
- (ii) The act of domestic violence was made against a member of the Accused's family.

- Possession of cannabis substances

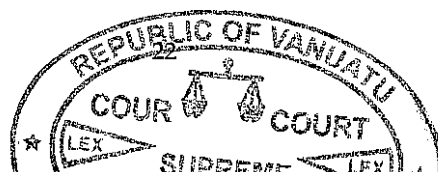
- (i) The Accused had in his possession, a material plants;
- (ii) The plant material was cannabis substances;
- (iii) The accused knew that he had cannabis in his possession.

175. As to the offence of Domestic Violence against Joyceline Kalotap (in Count 1), the Accused and his defence agreed and accepted that Joyceline Kalotap is the Accused's small mother and a member of the Accused's family. The evidence as found and accepted by the Court is that on 24 April 2024, at Lumbukuti Village, Tongoa, the Accused committed an act of violence against his small mother, Joyceline Kalotap.

176. The Prosecution has proved beyond reasonable doubt the essential elements of the offence of Domestic Violence in Count 1.



177. As to the offence of Domestic Violence against Michel Taripoa (in Count 3), the Accused and his defence agreed and accepted that Michel Taripoa is the father of the Accused and a member of his family.
178. The evidence as found and accepted by the Court is that on May 2024, at Stade Area, Port Vila, Efate, the Accused committed an act of Domestic Violence against his father, Michel Taripoa.
179. The Prosecution had proved beyond reasonable doubt the essential elements of the offence of Domestic Violence in Count 3.
180. As to the offence of possession of cannabis substances (in Count 2), it is important to observe that possession is the legal control or ownership of something, usually some type of object. It is used in criminal cases and to establish control over, for example, illegal drugs. Possession is a key requirement when charging a person with a drug crime. Under the law, possession can be broadly classified into actual and constructive. Actual possession means having physical possession of the drugs, whereas constructive possession is more than that to establish.
181. Constructive possession occurs when a person does not have physical possession of drugs but has the ability to physically possess them. For example, if drugs are found in a room of a house, the room was occupied or used by a person, that person could be charged with possession under the concept of constructive possession, even though the drugs are not on his person. A key factor in establishing constructive possession is whether the individual (here the Accused) knew about the drugs and had the ability to physically possess them. That is the situation in the present case.
182. The elements that the prosecution provided in their opening and final submissions are those relating to physical possession of the cannabis substances. The present case involves constructive possession of cannabis substances found in the Accused's room where other members of the family have also access to that room.
183. To establish constructive possession, the prosecution needs to prove the following:
- (i) Knowledge: The Accused was aware that the drugs were present in his room. Michel Taripoa gave evidence that the Accused, Songi Michel, smoked marijuana (cannabis) and was under the influence of drugs. He advised the two police officers (Jack Willie and Ronphil Taliban) to be careful as the Accused might have a knife with him. The evidence of the two (2) police officers is that based on the information provided by the father of the Accused, Michel Taripoa, they conducted a search in the room of the Accused, Songi Michel, the next day, after they arrested and detained him at Morua Police Station, Tongoa. They found material substances they suspected to be cannabis. They seized and collected the material items. A test was conducted on the material items. The result showed that the material items were confirmed to be cannabis. (See Exhibit P1 and Exhibit P2). The Accused's evidence is to the effect that he allowed anyone to have access to his room. He also allowed those who consumed marijuana and were under the influence of such a drug to go to his room. It can be inferred and the Court accepted that the Accused must have known of the cannabis substances found in his room.



- (ii) Intent: The Accused intended to possess the cannabis substances found in his room.

The evidence consistently showed that the cannabis substances were found in the Accused's room. The Accused consumed cannabis substances. He was under the influence of cannabis substances (Evidence of Michel Taripoa). The Accused admitted that he allowed anyone including those who consumed cannabis substances to enter his room as there was no rule to access his room.

The evidence established that the Accused intended to have access to cannabis substances found in his room at Lumbukuti Village, Tongoa, on 25 April 2024 and that he may be acting recklessly in doing so in this case.

The evidence also established that by allowing those who consumed cannabis substances in his room, there was a risk that cannabis substances might be found in his room, he knew of that risk and he took that risk; and it was unreasonable for him to take that risk as he knew that it was against the law and it was unlawful to have in his possession cannabis substances.

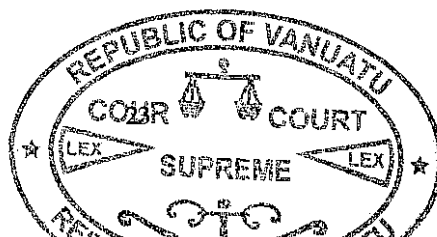
Section 6 of the Penal Code Act [CAP. 135] (*"the Act"*) states:

- (1) *No person shall be guilty of a criminal offence unless he intentionally does an act which is prohibited by the criminal law and for which a specific penalty is prescribed. The act may consist of an omission, or a situation which has been created intentionally;*
- (2) *No person shall be guilty of a criminal offence unless it is shown that he intended to do the very act which the law prohibits; recklessness in doing that act shall be equivalent to intention;*
- (3) *A person shall be considered to be reckless if –*
 - (a) *Knowing that there is a risk that an event may result from his conduct or that a circumstance may exist, he takes that risk; and*
 - (b) *It is unreasonable for him to take it having regard to the degree and nature of the risk which he knows to be present.*

...

Based on the above evidence, Section 6(1), (2) and (3) apply together as a whole or separately or individually to the situation of the present case.

- (iii) Control: The Accused, Songi Michel, had dominion and control over the drugs, even with others. Witness Michel Taripoa gave evidence to the effect that the Accused, Songi Michel, has the control of his room. When the Accused was in his room, no members of the family could enter his room. When they call the Accused for food, they must stay away from his room.



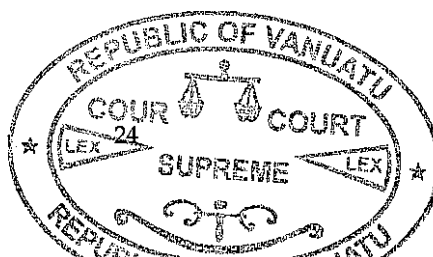
In March 2024, some members of his family have access to the Accused's room (A small daddy from south Epi, his son and the child of Joyceline). The evidence is also that these who had access to the Accused's room in March 2024, have already returned to their homes.

The evidence is further that, on 24 April 2024, the Accused was alone in his room. In effect, after the incident involving Joyceline, Michel Taripoa, went to purchase the battery for the radio. The Accused, Songi Michel, was alone in his room on that day. The two police officers (Jack Willie and Ronphil Taliban) went to the house and arrested the Accused, Songi Michel, when he was alone in his room.

The evidence was to this effect, the Accused had access to the room where the drugs were found. Inside the room, the personal belongings of the Accused were kept in that room. The Accused, Songi Michel, was the primary resident of that room. It was true that some members of the Accused's family have access to that room, but they have returned back to their respective homes. Those members of the family do not have equal or greater access to the Accused's room where the drugs were found on 25 April 2024.

On 24 April 2024, the Accused was alone in his room. No one else was in that room. It is found and accepted that in this case, the Accused was the only one with access or control over his room and that the Accused exercised dominion and control over any drugs found in that room.

184. The Court rejected the defence case and submission that the cannabis substances found in the room of the Accused at Lumbukuti Village, Tongoa, on 25 April 2024, were not his or that they did not belong to the Accused.
185. The Court is satisfied that the prosecution has proven the knowledge, the intention, the dominion and control of the Accused, Songi Michel, over the drugs (cannabis substances) found in the Accused's room at Lumbukuti Village, Tongoa on 25 April 2024.
186. The prosecution has proved each and all essential elements of the offence of possession of cannabis in Count 2 beyond reasonable doubt.
187. The evidence of the Accused, Songi Michel, is rejected as unreliable and less than candid. His version of events is implausible and not capable of acceptance.
188. I am satisfied beyond reasonable doubt of the following:
 - a) That around 24 April 2024, the Accused, Songi Michel, intended to commit an act of Domestic Violence at Lumbukuti Village, Tongoa, against his small mother Joyceline Kalotap, when he behaved in an offensive manner when he told her to cut her neck or head and told her to have sexual intercourse with her;



- b) That around 25 April 2024, at Lumbukuti Village, he had in his possession cannabis substances with a net weight of 5.5 grams, and he knew that it was against the law to have in his possession cannabis substances;
- c) That, around May 2024 at Stade area, Port Vila, he intended to commit an act of domestic violence against his father, Michel Taripoa, when he harassed and intimidated him when he said rubbish talks to him.

XI. VERDICTS

- 189. The Accused, Songi Michel, is found guilty of the offences of acts of Domestic Violence, contrary to Sections 10(1) and 4(1) (e) (b) of the Family Protection Act in Counts 1 and 3 of the Information.
- 190. The accused, Songi Michel, is found guilty of the offence of possession of cannabis, contrary to sections 2 (62) of Dangerous Drugs Act [CAP 12] in Count 2 of the Information.

DATED at Morua, Tongoa, this 26th day of May, 2025.

BY THE COURT

.....
Hon. Chief Justice Vincent Lunabek

