

PUBLIC PROSECUTOR

V

CHRISTOPHER RIHAI

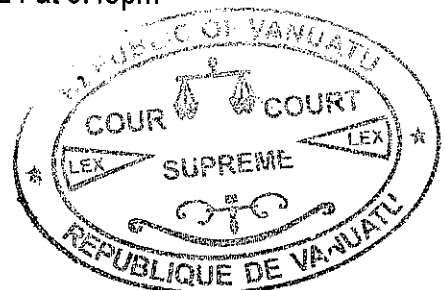
Date of Plea: 3 December 2024
Date of Sentence: 25 March 2025
Before: Justice M A MacKenzie
In Attendance: Public Prosecutor – Ms J Tete
Defendant – Ms A Yeeon

SENTENCE

1. Mr Christopher Rihai, you appear for sentence in relation to a charge of intentional assault causing death contrary to section 107 (d) of the Penal Code [CAP 135]. The maximum penalty for the offence is 14 years imprisonment.

The Facts

2. The victim is your disabled brother-in-law. He was living with you and your wife at the time of the assault. On 25 September 2024, you and your wife saw the deceased. Your wife told him that there was food for him in the kitchen. The deceased went to the kitchen and ate his share of the food, as well as the food meant for your children.
3. You were told that the deceased had eaten all the food. You became angry and went looking for him on the road. You found him, assaulted him and left him there on the road. According to the medical report, the deceased was assaulted, vomiting, unable to walk, complained of a sore head, body aches and shortness of breath.
4. The deceased was pronounced dead on 27 September 2024 at 6.45pm



5. Under caution, you made admissions to the allegations.

Principles/purposes of sentencing

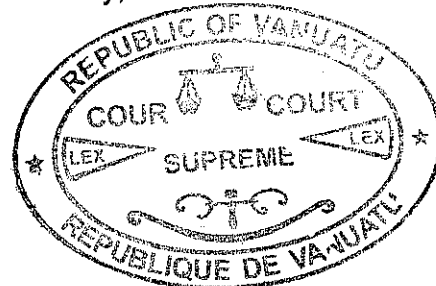
6. The sentence I impose must hold you accountable and must denounce and deter your conduct. The sentence should ensure you take responsibility for your actions and help you to rehabilitate. It must also be generally consistent.

Approach to sentence

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

Starting point

8. The first step is to set a starting point, taking into account the aggravating and mitigating factors of the offending and with reference to the maximum penalty for the offence.
9. The aggravating factors are:
 - a. The assault was unprovoked.
 - b. The breach of trust – the victim is your brother-in-law and was living with you and your wife.
 - c. The victim was vulnerable because he had a disability.
 - d. After assaulting the victim, you left him on the road. You did not get him medical assistance.
10. The prosecutor submits that the appropriate starting point is in the range of 6-8 years imprisonment. Defence counsel submits that the starting point should be 3-4 years imprisonment. Counsel have both referred to a number of cases to assist the court in setting the starting point. The two cases of most assistance are *Public Prosecutor v Ierogen* [2002] VUCA 34 and *Public Prosecutor v Rexley* [2021] VUSC 99.
11. In *Ierogen*, the Court of Appeal endorsed guidelines established in *Public Prosecutor v Malesu* [2001] VUSC 37 for offending of this nature. In that case, the Chief Justice said that in situations where a defendant uses fists and legs to cause serious injuries, and death results, the sentence to be imposed is around 4-7 years. In *Rexley*, the defendant



slapped his partner so hard she fell off a chair onto the ground. He then kicked her forcefully in the ribs. She died the next day. The starting point adopted was 4 ½ years' imprisonment.

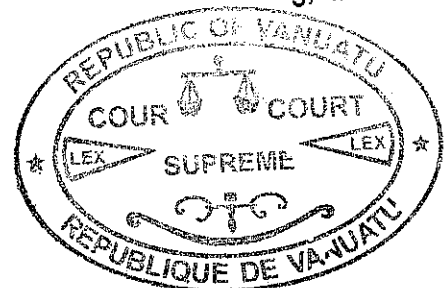
12. Taking into account the aggravating factors and the cases I have referred to, I adopt a starting point of 4 ½ years' imprisonment.

Step Two - guilty plea and personal factors.

13. You pleaded guilty at an early opportunity. The sentence is reduced by one third for the guilty plea, which is 18 months.
14. You are aged 29 years, and a first offender. You come from North Pentecost and had no formal education. You are married and have six children. You make a living through farming, and belong to a church. You are remorseful and a custom payment was made to the victim's parents. They were given 10 pigs with tusks, which you believe to be very valuable. The presentence report says that you have an anger issue and that you take little responsibility for your actions.
15. Taking into account that you are a first offender, that you are remorseful, and that a custom payment was made, the sentence is reduced by 6 months, which is approximately 10 percent.
16. You were remanded in custody for 5 weeks, from 4 October 2024 -12 November 2024, an effective sentence of 2 months 2 weeks imprisonment. You were then granted bail. The sentence is reduced by 2 months 2 weeks for that factor. When you pleaded guilty, bail was revoked, and you have been in custody since 3 December 2024. I will back date the sentence to commence on that date.

End Sentence

17. The end sentence is 2 years 3 months 2 weeks imprisonment.
18. I am not asked to suspend the sentence. Counsel responsibly acknowledges that this is serious offending and warrants a term of imprisonment. Pursuant to s 57 of the Penal Code, I must have regard to the circumstances, the nature of the offending and your character. This is a serious incident, involving an unprovoked assault of a vulnerable victim. Your actions were completely disproportionate to the fact that the victim had eaten the food. You left him on the road and did not get him medical assistance. Those factors point away from suspension, either in whole or in part. I also take into account that you are a first offender, show remorse and made a custom payment, which favour suspension. On balance, and particularly given the seriousness of the offending, a



sentence of imprisonment is warranted to meet the need for accountability, deterrence and denunciation. I decline to suspend the sentence, either in whole or in part.

19. The sentence of imprisonment is to commence immediately and is back dated to 3 December 2024 when bail was revoked.
20. You have 14 days to appeal.

DATED at Port Vila this 25th day of March 2025.

BY THE COURT

