

**PUBLIC PROSECUTOR**

**-V-**

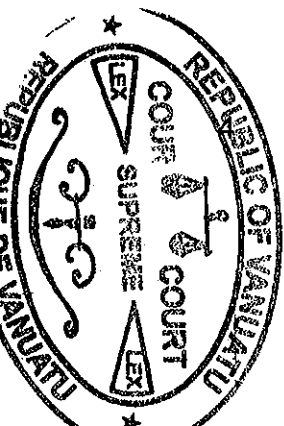
**COLLIN JERRY**

Coram: Justice D. Fatiaki  
Counsel: Mr. T. Garae for the State  
Mrs. Pakoasongi for the Defence  
Date of Sentence: 9<sup>th</sup> June 2010

**SENTENCE**

1. On the 2<sup>nd</sup> March 2010 the defendant was convicted on his guilty plea to an offence of Intentional Assault. The facts outlined by the prosecution and admitted by the defendant describes how in the morning of 6<sup>th</sup> January 2010, the defendant argued with his wife over how much spending money she had given their son over the Christmas holidays. The son over-heard them arguing about him and intervened to say that he had not been given any money for Christmas. Despite his son's denial, the defendant continued to argue with his wife, and their son feeling upset, went outside and appeared to pick a piece of wood that was lying on the ground.
2. The defendant who had been watching his son, armed himself with a bush knife and went to his son outside, and, without any warning swung the knife at him. Fearing for his safety the son lifted his right arm to protect himself and the knife struck him on the right forearm causing an open fracture of the right ulnar bone and exposing the bone through a gaping flesh wound. The defendant then attempted to squeeze his son's neck but was stopped by another of his sons who intervened.
3. The injured son was rushed to Vila Central Hospital for treatment and the incident was reported to the police. The defendant was arrested and escorted to the police station where he frankly admitted injuring his son with a bush knife. The defendant was then charged with the offence.

In his pre-sentence report prepared by a probation officer the defendant claims "that he did not intend to hurt (his son) that much" and when he later learnt of the extent of his son's injuries, "he was hurt and felt sorry for his son". He has offered to personally perform a kastom ceremony to his son so that it will be more meaningful to him rather than involving others.



5. For his part and to his credit, the injured son accepts some responsibility for what happened to him and says *"that he is always ready to welcome his father back."* He also confirmed that *"he would accept a kastom ceremony from his father if he decides to perform one to him."*
6. State Counsel refers however to several sentencing precedents where dangerous weapons were used in intentional assaults causing permanent injuries and, in all cases, the defendants were sentenced to terms of imprisonment ranging from 5 months to 3 years and 6 months. Counsel also highlighted several aggravating features in the case and submits that the Court should impose a custodial sentence to *"reflect the serious (sic) of the offence and to dissuade the defendant and the general public not to commit such an offence against others."*
7. I have carefully considered counsels submissions and the defendant's pre-sentence report in determining the appropriate sentence in this case.
8. The starting point for my consideration must be the penalty prescribed by the legislature for the offence which the defendant has been convicted namely, Intentional Assault Causing Permanent Damage which carries a maximum penalty of 5 years imprisonment.
9. In this case I must impose a sentence which holds the defendant accountable not only for the serious harm that he caused to his son both physically and mentally, but also to his family members who had the misfortune of witnessing this unfortunate traumatic incident.
10. Collin Jerry I must not only denounce your conduct in the strongest possible terms, but in addition, the sentence I impose should deter you and like-minded others from committing a similar offence in future. The use of readily-available bush knives in attacks on individuals is becoming prevalent in this country and the Court has a duty to protect the community from such potentially fatal attacks.
11. The intentional use of a bush knife to injure anyone is an extremely serious matter, made even more serious in this case, by its use on a family member by the so-called head of the household.
12. Collin Jerry I have noted your early admission and guilty plea and your hither to unblemished record. These are heavily outweighed however, by the aggravating features in this case which includes :
  - The sudden violent attack on your son who was unarmed at the time ;
  - The fact that the victim is your very own son who should be able to look to you for care and protection




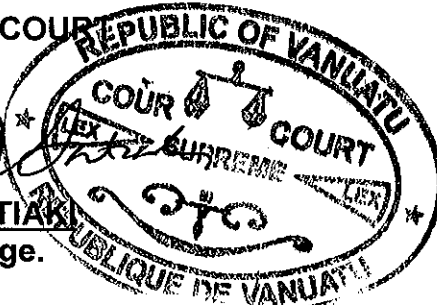
- The use of what can only be described as a lethal and dangerous weapon to cause actual injury ;
- The nature and extent of the injury caused to your son's right arm which is permanently disabling ;
- The clear premeditation involved in the attack on your son; and
- The fact that your attack continued even after you had inflicted a serious crippling injury on your son's arm.

Collin Jerry in light of these aggravating features, a prison sentence is inevitable.

13. In your favour Collin Jerry, I understand that your family members have continued to maintain contact with you through regular prison visits and this augers well for the future reconciliation and reunion of you with your family. You also profess to have learnt a valuable lesson from the past 3 months of being in custody and you say you never wish to return to prison again.
14. In all the circumstances, the most appropriate and lenient sentence I can impose on you, is one of imprisonment for 12 months suspended for 2 years. Collin Jerry the meaning of this suspended sentence is that you will not have to go to prison immediately but, if you are convicted of another offence in the next 2 years, you will be returned to prison to serve this sentence of 12 months imprisonment in addition to any other sentence that may imposed on you for your re-offending.
15. In addition Collin Jerry, you are ordered to conduct a kastom reconciliation ceremony to your son and family members by 18 June 2010. This is to be witnessed by a Probation Officer who is directed to prepare a report to be filed in Court by 25<sup>th</sup> June 2010.
16. If you disagree within this sentence you have 14 days to appeal against it.

**DATED at Port Vila, this 9<sup>th</sup> day of June, 2010.**

BY THE COURT

**D. FATIAKI**  
Judge.