

**IN THE SUPREME COURT  
OF THE REPUBLIC OF VANUATU**  
*(Criminal Jurisdiction)*

**Criminal Case No. 81 / 2012**

**PUBLIC PROSECUTOR**

**V  
JONATHAN IATI**

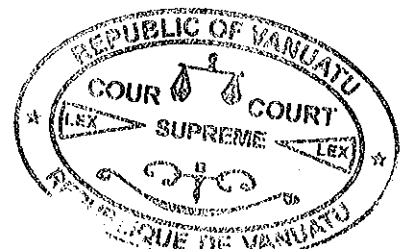
**Hearing:** 28 September 2012  
**Before:** Justice Robert Spear  
**Appearances:** Leon Malantugun for the Public Prosecutor  
Jacob Kausiama for the Defendant

---

**SENTENCE**

---

1. The accused pleaded guilty to one charge of unintentional harm causing death at the hearing on 7 August 2012. He was originally remanded through to 7 September 2012 for sentence and I called for a pre-sentence report. I also understood that that report would explain what had occurred in respect of custom reconciliation.
2. A pre-sentence report was not prepared by 7 September 2012 and that required the case to be further remanded. However the opportunity was taken to give careful consideration to what this case was really about.
3. As mentioned in the notes made and published on 7 September 2012, this is a tragic case where an 8 year old was hit by a bus driven by the defendant. She was crossing the main road at Teouma at that time having just been dropped off by another bus who had taken her back from school. It was raining at that time. The little girl went behind the bus (that she had been in) and then ran across the road only to be hit by the bus driven by the defendant. There is a general assertion in the summary of facts that the defendant was speeding but he denies that. He said that he was travelling at a reasonable speed. He just said that he had no time to avoid the accident.
4. There has been a custom reconciliation ceremony and that is reported on by the probation officer.



5. I adjourned the case further to enable the prosecution to give careful thought to whether this was an appropriate charge and whether the sentence recommended in the pre-sentence report of 1 to 2 years' imprisonment suspended for 2 years with community work was an appropriate sentencing submission in all the circumstances. It appeared to me that this was close to an unavoidable accident.
6. Be that as it may, the defendant has acknowledged some responsibility by his plea of guilty and no attempt has been made by him to seek to have that plea vacated nor by the prosecution to have the charge reviewed.
7. Mr Malantugun only received the file this morning from the prosecutor who has had carriage of it. Mr Malantugun informs me that the position of the prosecution is that an appropriate outcome here would be a conviction and discharge without penalty. This is to recognise all those matters that I have dealt with earlier.
8. Mr Kausiama confirms to me that this is an outcome that he urges on the Court and in my view it is an appropriate outcome. The fact of a conviction recognises the defendant's admission, by his plea of guilty, that there was some responsibility on his part.
9. In these circumstances, Jonathan Iati you are convicted and discharged without penalty. You may go.

BY THE COURT

