

IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU

(Criminal Jurisdiction)

Criminal Case No. 45 of 2013

PUBLIC PROSECUTOR

V

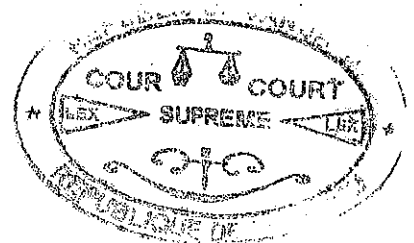
KALKOT WAIANE

Coram: Judge Aru

Counselors: Mr. K. Massing for the Public Prosecutor
Mr. F. Tasso for the Defendant

SENTENCE

1. On 6 August 2013 the Defendant entered a guilty to one count of intentional assault contrary to section 107 b) of the Penal Code and was convicted accordingly.
2. The facts of the offending as provided by the Prosecution in their brief of facts are not disputed. On 20 June 2013 the Complainant and his co workers went to Erakor Village to collect cement bricks for a customer. The bricks were stock piled outside the defendant's house.
3. While they were loading the bricks onto the transporting vehicle, the accused approached them and said words to effect that "hey yufala I askem long who ia blong karem ol bricks ia? Yufala I wet long mi long ples ia." (Translation: hey who gave you permission to take the bricks wait for me here).
4. The Defendant then went into the house and grabbed a cane knife. When the Complainant and his colleagues saw the Defendant approached them with the knife they fled. He chased them and caught up with the Complainant and cut him with the knife on the Complainant's left arm.
5. The Complainant then went directly to the Police and reported the matter and the Police arrested the Defendant on the same day. On 24 June 2013 the Defendant made a statement to the Police admitting the offence.



6. Intentional assault is a serious offence in that the assault committed is not accidental but intended. The seriousness is reflected in the manner the assault is committed for example if a weapon or instrument such as a knife is used as it could be fatal.
7. No one is allowed to take the law into their own hands by causing harm to others as they see fit as has happened in this case. Therefore whatever sentence I impose on you today must not only be punishment for your crime but must also be a deterrence to your further offending and to other members of the public at large.
8. As a starting point I impose a sentence of 5 months imprisonment. Your offending is aggravated by the use of a knife as a weapon to harm the Complainant and you acted out of anger and used threatening words against the Complainant. I therefore increase your sentence to 6 months imprisonment.
9. Mr. Waiane you are 33 years old and you have 5 children the eldest being 17 who is attending Nursing School and the youngest still in kindergarten. You are the sole breadwinner of your family. Your pre sentence Report reveals that you are a first time offender. Furthermore, you gave 1 roll of calico 2 mats and VT10, 000 as custom reconciliation. Taking this into account I reduce your sentence to 5 months imprisonment. For your early guilty plea you are entitled to a one third discount of your sentence which leaves you with an end sentence rounded off to 3 months imprisonment.
10. This is suspended for a period of 12 months. Should you reoffend during this time your sentence will be reactivated and you will be required to serve the full term in prison. In addition to your suspended sentence, you are to do 50 hours community work.
11. You have 14 days to appeal this decision if you are not happy with it.

DATED at Port Vila this 28 day of August 2013

BY THE COURT

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D. ARU
Judge

