

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

Criminal Case No.34 of 2013

**PUBLIC PROSECUTOR**  
**-v-**  
**ATISSON ALVEA**

**Coram:** Justice D. V. Fatlali  
**Counsel:** Mr. T. Karae for the State  
Mr. H. Vira for the defendant  
**Date of Ruling:** 19 June 2013

**SENTENCE**

1. On 4 June 2013 the defendant Atisson Alvea was convicted on his guilty plea to a single count of Intentional Assault Causing Temporary Injury contrary to Section 107 (b) of the Penal Code [CAP: 135]. This offence carries a maximum penalty of "imprisonment for 1 year".
2. The brief facts admitted by the defendant may be summarized as follows:

On 29 September 2012 the defendant was drinking at home with an uncle who had recently returned from New Zealand. What began as a happy celebration turned ugly however, when the defendant became intoxicated and started a heated argument with his father. He was aggressive and swearing at family members telling them: "yufala fak off long haus, mi no wantem save long family".

After this went on for sometime, the defendant's elder brother stepped in to try to control the situation and calm the defendant down. Instead of calming down the defendant ran to a neighbouring house and armed himself with a bush knife with which he attacked his father. The defendant's brother intervened again and received a severe wound to his left cheek from the bush knife wielded by the defendant.

The defendant's brother who was bleeding profusely, was rushed to hospital where his injury was treated by stopping the bleeding and wiring his mouth shut. The brother's injuries included a laceration measuring 5 centimeters long by 1 centimeter deep and x-rays showed fractures of the cheek bone. Although the injuries were severe the medical prognosis is that they "should go away over time".

3. The defendant was arrested and interviewed by the police on 30 September 2012. The defendant whilst admitting drinking alcohol at his home,



remembers nothing else – "Lo naet ia mi no save anything nating be lo naet ia mi drong tumas".

4. Atisson Alvea let me make two (2) things very clear to you right now. You are very fortunate that you are not facing a much more serious charge. The second thing I want to tell you is voluntary intoxication is not a defence nor does it excuse your disgraceful behaviour towards your family members on that night. If you can't handle alcohol or control yourself when you are drunk, then don't drink.
5. I have received your counsel's submissions in mitigation of sentence from which I extract the following personal details:
  - (1) You are the youngest born son in a family of three (3) brothers;
  - (2) You are 23 years of age and were in a defacto relationship and soon to become a father;
  - (3) You were in regular employment as a mechanic with World Motors and you have ambitions of undertaking further studies at the Australian Pacific Technical College (APTC);
  - (4) You are a first time offender and you pleaded guilty at the first opportunity;
  - (5) You are remorseful for your actions and behaviour and you were remanded in custody from 30 September 2012 until 22 October 2012;

Your counsel urges on your behalf non-custodial community based sentences of supervision and community work.

6. Prosecuting counsel, however, in a well thought-out and helpful sentencing submission highlights the aggravating features of this offence as follows:
  - (1) *"The defendant assaulted his brother who was protecting their father;*
  - (2) *The defendant used a sharp weapon;*
  - (3) *The defendant acted out of anger and was under the influence of alcohol;*
  - (4) *The defendant has anger issues and is not the first time that he threatened his family;*
  - (5) *The victim suffered serious albeit temporary injuries to his mouth;*

and Prosecuting counsel recommends a lengthy suspended prison sentence and supervision.

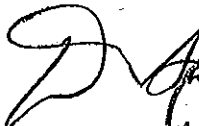
7. Atisson Alvea, you are a relatively young man with good future prospects but it seems you have anger issues and are incapable of controlling yourself and your behaviour whenever you become intoxicated. This case also illustrates how you can become very violent and dangerous under the influence of alcohol. You clearly need help with your problems.



8. Atisson Alvea, you are a first offender and have already had a taste of prison life. I hope that that brief experience of prison will convince you never to want to return there again. I am willing to give you one last chance to turn a new chapter in your life and become a responsible, respectful son, brother and father to your soon to be born child.
9. The sentence I impose on you is 10 months imprisonment suspended for 3 years. This sentence means that you will not have to return to prison today, but, if you should break the law again within the next 3 years and are convicted, then, you will be returned to prison to serve this sentence of 10 months imprisonment. Whether or not that occurs, is entirely in your hands.
10. In addition, and to help you reconcile with your family and stay off alcohol I impose a sentence of Supervision for 12 months with the following special conditions:
  - (1) That you refrain from all alcoholic drinks for the entire period of supervision;
  - (2) That you undertake anger management counselling as directed by a probation officer; and
  - (3) That you undertake and complete the "*Niufala Rod Programme*".
11. Finally, you are to perform a custom reconciliation ceremony to your family under the supervision of a probation officer within 21 days from now and the probation officer is to prepare and file in Court a report on the ceremony within 7 days after the ceremony has been performed.
12. You have 14 days to appeal this sentence if you do not agree with it.

DATED at Port Vila, this 19<sup>th</sup> day of June, 2013.

BY ORDER OF THE COURT

  
D. V. FATIAKI  
Judge.

