

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

**Criminal
Case No. 17/2323 SC/CRML**

PUBLIC PROSECUTOR

V

WALTER FURET

Date of Sentence: 27th day of February, 2018 at 9:00 AM

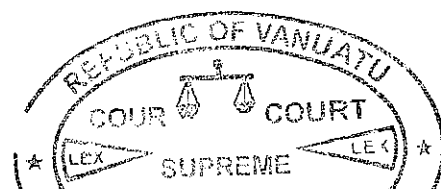
Before: David Chetwynd

Counsel: Ms Betina Ngwele for Public Prosecutor

Mr Nigel Morrison for Defendant

SENTENCE

1. The defendant Walter Furet has entered pleas of guilty to charges of Domestic Violence, Breach of Family Protection Orders, Malicious Damage and Carrying a Firearm in Public.
2. The charges arise out of the defendant's behavior last year. Over a period of 2 months or more he embarked on a cowardly and frightening campaign against his wife. There were a series of texts and emails which were full of hate and which showed his contempt of decent acceptable behavior and the law.
3. His behaviour was despicable but despite that most of what I have heard in mitigation today is about how *he* has suffered. This to my mind is the typical behaviour of the selfish bully the defendant has admitted to being.
4. His threatening attitude culminated in his going to his wife's home in the early hours of the morning on 11th July last year. He appears to have been accompanied by two men (who for some unfathomable reason remain unidentified). They attempted to deflate the tyres of the complainant's vehicle. They were asked to leave but refused to do so. They were swearing and acting aggressively not only towards the complainant but towards her mother as well. It is disappointing that these two other men who must be easily identifiable, just ask the defendant who they were, remain at large.



5. The police were called and in their presence the defendant removed a shotgun from his vehicle and fired it in the air. He then proceeded to break windows with the weapon.

6. Originally the defendant was charged with 12 offences but he is fortunate that his counsel have persuaded the prosecution to reduce those 12 matters to just 4 charges. He should be very grateful to his counsel for their efforts and advocacy on his behalf. It is noted that the defendant does not dispute the summary of facts provided by the prosecution.

7. An offence of domestic violence carries with it a maximum sentence of 5 years imprisonment (or a substantial fine). The defendant has accepted the facts on which the charges are based and whilst there is no allegation of physical violence there was a prolonged period at psychological aggression. The defendant suggests that much of the aggression was irrelevant as his wife had blocked his texts. I beg to differ, the prolonged hate campaign of threats and vile insults must have had a huge psychological impact on the complainant. As such the harm caused was just as damaging as physical harm and I have no doubt this was a harrowing time for the wife. It culminated in the terrifying visit in the early hours of the morning of 11th or 12th July

8. The penalty for breaching a family protection order is just 2 years or a substantial fine. I do not understand the logic of that maximum sentence. It seems to me that if a person deliberately breaches an order of the court then the penalty should be at least the same as for an offence which the order is supposed to prevent. Maybe the logic is that contrary to the provisions of section 52 of the Penal Code in respect of concurrent sentences any sentence for a breach should be consecutive. The Family Protection Act 2008 does not say that although it does say an offence under section 21(1) of the Act is in addition to and not in substitution for any other offence constituted by an act of domestic violence. In any event, clearly the breach of an order of the Court is a serious matter.

9. So far as the firearm offence is concerned the defendant was finally charged with just the one offence of carrying a firearm in a public place contrary to section 29 of the Firearms Act. The maximum sentence is 5 years imprisonment or a substantial fine (or both). Again I have to say I believe the defendant is very lucky. The facts which he has admitted show that he was carrying a shotgun in his vehicle. He drove that vehicle to his wife's home at 2:30 in the morning. He was in the company of two men. They were swearing and acting aggressively. When the police attended the scene the defendant



removed the shotgun from the vehicle and fired it. He then used the gun to smash the louvre glass in some of the windows of his wife's residence. That is not merely carrying a firearm in a public place. I accept that the defendant has only been charged with a section 29 offence but the facts admitted show this to have been an offence at the serious end of the scale in respect of such offences.

10. The charge of malicious damage relates to the smashing of the louvre glass. It is, in the scheme of things, a minor matter. The offence merits a minor sentence of 6 months.

11. For the offence of domestic violence the starting point is 2 ½ years. It was aggravated by the prolonged period of abuse and the early morning visit with the defendant carrying a loaded weapon and firing it. The final sentence should be 3 years.

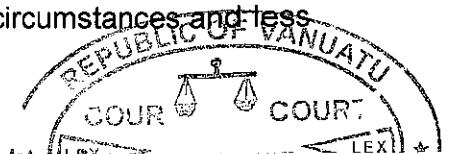
12. For the breach of the order, and bearing in mind my comments above (paragraph 8) the sentence will be 2 years imprisonment.

13. For the firearms offence the starting point is 18 months but the offence was seriously aggravated by all that went on before it was committed and by the defendant actually firing the weapon and using it to smash window glass. He did this in despite the presence of police officers. As I have indicated the sentence should reflect the fact that the offending was at the most serious end of the scale and the defendant is sentenced to 2 ½ years.

14. There is very little that can be said in mitigation. I accept the defendant has accepted he has a problem and has sought professional medical help. He now appears to be very sorry for his actions. However he still seems to have this fundamental belief he has suffered from all this rather than causing the suffering. He has not been in trouble with the police or authorities previously and will be given credit for his past good character. Taken together these factors will result in his sentence being reduced by 12 months.

15. The defendant is not entitled to a full 1/3rd reduction in his sentence for his guilty plea. He did not enter his guilty plea at the earliest opportunity despite accepting the great majority of the allegations made against him. I will make an allowance of 1/6th of the sentence.

16. The end result is that the defendant is sentenced, for the offence of domestic violence, to 3 years imprisonment less 12 months for mitigating circumstances and less



1/6th or 4 months for his guilty plea leaving a balance of 1 year and 8 months. For the breach of the family protection order he is sentenced to 30 months less 12 months for the mitigating factors and 3 months for the guilty plea leaving 1 year and 3 months. For the firearms offence the final sentence is 1 year and 3 months. For the malicious damage the final sentence is 5 months.

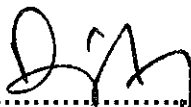
17. I have considered the defendant's circumstances very carefully. I have also considered the steps he has taken to correct his behavior. Given his responsibilities and his apparent acceptance all is not right, I am prepared to suspend his sentences for a period of 3 years. I did consider making the defendant serve part of his sentence due to the seriousness of the offending but the idea of a short sharp shock did not seem appropriate in his case. I am reasonably confident that if I allow the defendant to remain at large in the community he will not re-offend. I explained to the defendant what this would mean and he understood he will go to prison if he commits further offences within a period of 3 years.

18. The defendant shall also carry out 100 hours of unpaid work for the community and be supervised by a probation officer for twelve months.

19. The defendant is entitled to appeal this sentence if he is dissatisfied with it. As I mentioned in Court when handing down these sentences, time to appeal will only start to run when counsel receive a written copy of these full reasons for sentence.

DATED at Port Vila this 8th day of March, 2018.

BY THE COURT


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David Chetwynd
Judge

