

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

Criminal
Case No. 20/2336 SC/CRML

BETWEEN: Public Prosecutor

AND: Thomas Iaken Nocklam
Defendant

Date: 27 October 2020
By: Justice G.A. Andrée Wiltens
Counsel: Ms M Tasso for Public Prosecutor
Mr K. Karu for the Defendant

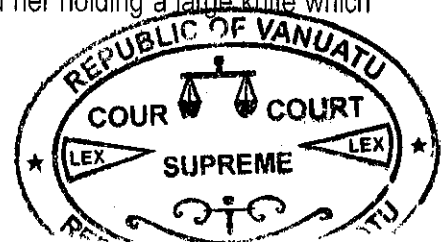
SENTENCE

A. Introduction

1. Mr Nocklam pleaded guilty to a charge of intentional assault causing permanent injury.

B. Facts

2. Mr Nocklam was married to and living with the complainant on Tanna Island at the time of the offending.
3. On 3 July 2020, the complainant advised Mr Nocklam about a parcel sent from Port Vila some days earlier which needed collecting from the airport. He agreed to go and collect the parcel, but he later forgot all about it.
4. The complainant reminded Mr Nocklam, but he essentially ignored her. The complainant was about to take their youngest child to be looked after by another so that she could go and collect the parcel. She went into their home and Mr Nocklam followed her holding a large knife which he used to cut her leg. He sliced her leg and drew blood.



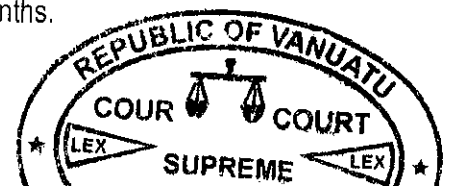
5. The complainant tried to run outside but Mr Nocklam again struck her with the knife, this time to her head. The complainant ran outside and collapsed due to the loss of blood.
6. The complainant was rushed to hospital.
7. The medical report reveals she suffered from a 7 - 8 cm laceration on her head, which was 2 cm deep. The cut to her leg had exposed the bone, and she had a tibial avulsion fracture.
8. Mr Nocklam admitted his offending to the police under caution and explained that it had occurred due to their argument regarding the parcel.

C. Sentence Start Point

9. The sentence start point is assessed by having regard to the maximum sentence for the offending and factoring in the aggravating and mitigating aspects of the offending.
10. The maximum sentence for this offending is a term of 10 years imprisonment. It is serious offending.
11. There is no mitigating aspect to the offending – a neighbour was responsible for getting your injured partner to the Hospital. However, there are aggravating factors, including:
 - The use of a weapon;
 - An attack to the head, the most vulnerable part of the human body;
 - The fact there were 2 wounds inflicted;
 - The breach of trust – they are de facto partners;
 - The offending occurred in the family home where the complainant should be able to feel safe and secure: and
 - The fact the offending occurred in the presence of their young children.
12. The start point adopted for this offending is 5 years imprisonment.

D. Personal Factors

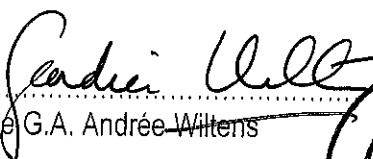
13. Mr Nocklam pleaded guilty at the first opportunity. That has spared his partner the need to give evidence and saved Court costs/time. The mitigation available for this factor is a 25% reduction from the sentence start point.
14. Mr Nocklam is 30 years old with two young children support. He has no previous convictions and is in good standing with the community.
15. Mr Nocklam has apologised to the complainant and taken part in a custom reconciliation ceremony.
16. For these personal factors I further reduce the sentence start point by 9 months.



E. Sentence

17. The end sentence I impose is 3 years imprisonment. The sentence is to commence from 6 July 2020 to reflect the time already served and to preserve Mr Nocklam's parole rights.
18. I am not prepared to suspend any of the sentence. It is one thing to lose one's temper. It is far worse to then use a weapon and attack one's partner utilising 2 blows which have caused considerable injury. There is a danger to the community evidenced by Mr Nocklam's excessive over-reaction, and the Court has an obligation to protect unsuspecting members of the community and to deter any further similar conduct. Those sentencing principles would be undermined by imposing the suspension of any part of the sentence.
19. Mr Nocklam has 14 days to appeal this sentence if dissatisfied with it.
20. The bush knife/machete used to inflict the injuries is to be destroyed.

Dated at Port Vila this 27th day of October 2020
BY THE COURT


Justice G.A. Andrée Wiltens

