

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

Criminal
Case No. 21/2436 SC/CRML

BETWEEN: Public Prosecutor

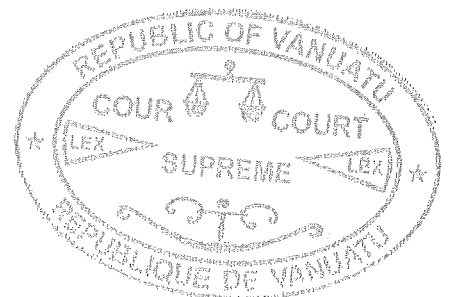
AND: Lesley Moli Valele
Tutus Gavu Valele
Defendants

Date: 17th September 2021
By: Justice G.A. Andrée Wiltens
Counsel: Mr D. Boe for the Public Prosecutor
Mr R. Willie for the Defendant

SENTENCE

Lesley Valele

1. Mr Valele was convicted after trial of intentional assault occasioning permanent injury. The bare facts of the offending are that Mr Valele struck Mr Mosese firstly from behind to the back of his head with a bottle. Almost immediately afterwards, he struck Mr Mosese in his left eye with a broken bottle, causing loss of sight.
2. The maximum penalty for this offence is 10 years imprisonment.
3. There are no mitigating factors to this offending. However there are aggravating aspects which include the following:
 - the effects of the offending on Mr Mosese;
 - the attack was unprovoked;
 - a particularly obnoxious weapon was used, a broken bottle, to strike twice the most vulnerable part of the human body, namely the head;
 - the callous manner or abandoning a seriously injured relative; and
 - the breach of trust involved – father to son.
4. The start point I adopt for this offending is 5 years imprisonment.




5. Mr Valele is 46 years old, married with 8 children. He is a farmer who also fishes to earn income. He has no previous convictions.
6. He explained to the PSR writer that he was so drunk at the time that he could hardly recall his actions. He claimed to be remorseful. However, a truly remorseful person would have accepted his own son's version rather than suggest him to be lying.
7. Mr Valele claims to be unwell for the past 20 months with some bleeding from the bowel. That is not mitigation and can be treated by Correctional Services.
8. He intends to participate in a custom reconciliation ceremony, and has spoken of VT100, 000, a pig and some kava as suitable gifts. It is clear that Mr Mosese has not been interested in taking part in such a ceremony to date.
9. For Mr Valele's personal factors I reduce the sentence start point by 6 months.
10. Accordingly, I convict Mr Valele and impose an end sentence of 4 years 6 months imprisonment. There is no possibility of the sentence being suspended.
11. Mr Valele has 14 days to appeal his sentence.

Tutus Gavu Valele

12. Mr Valele was convicted of intentional assault without any damage occurring. The maximum penalty for this offence is 3 months imprisonment.
13. Mr Valele is comparatively young, with no previous convictions. Although he threw stones at Mr Mosese who was bleeding after having been hit twice by Mr Valele's father with a bottle, no injuries were caused. Mr Mosese merely warded off the stones with his elbow.
14. This is relatively low offending no doubt influenced by his older relatives. Rehabilitation is accordingly important, and the need for that enables the Court to avoid imprisoning Mr Valele.
15. Instead, he is convicted and ordered to complete 80 hours of community work, and he is to pay compensation to Mr Mosese of VT10,000 within 21 days. If he fails to comply with the order for compensation, he will be incarcerated for 10 days.
16. Mr Valele has 14 days to appeal.

Dated at Luganville, this 17th day of September 2021

BY THE COURT


Justice G.A. Andrée Wiltens

