

## **PUBLIC PROSECUTOR v WORA NARRY TOKAL**

**Date of Plea:** 25 April 2023  
**Date of Sentence:** 5 May 2023  
**Before:** Chief Justice V. Lunabek  
**Appearances:** Mr D Boe for the State  
Mr RT Willie for the Defendant

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### **SENTENCE**

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#### **A. Introduction**

1. Wora Narry Tokal, you appear today for sentence after you entered guilty pleas on 25 April 2023 on two counts of domestic violence (Counts 3 and 6), one count of threats to kill a person (Count 4), one count of possession of cannabis substance (Count 9) and one count of cultivation of cannabis (Count 10).
2. On 25 April 2023, you also entered not guilty pleas on two counts of domestic violence (Counts 2 and 8), three counts of threats to kill a person (Counts 1, 5 and 7). You were discharged and found not guilty of these offences as a result of the prosecution's application of *nolle prosequi* pursuant to Section 29 of the Criminal Procedure Code.
3. You are now sentenced for offences in Counts 3, 4, 6, 9 and 10.

#### **B. Facts**

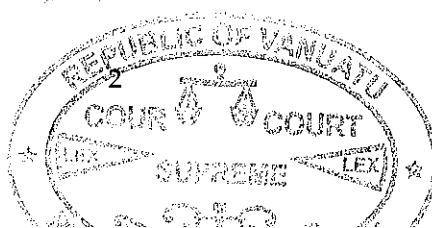
4. You are from Malo island.
5. The complainants are your father Sam Tokal and your wife Marie Antoinette. You all live on Malo island. You have a daughter of 3 years old together with your wife.



6. On 21 November 2022 at night, your wife Marie Antoinette Tamrock took two Chinese bags full of her clothes and her daughter and went to your father's house, Sam Tokal, for her safety as you were threatening her with a knife.
7. You followed her and continued to cut, the bags of your wife's clothes. You also took your wife's slipper and cut it into two.
8. You assaulted your wife on her head and you assaulted her also with a branch of burao tree. You swore at her with your father.
9. You threatened to cut your wife with a knife and you also threw stones at her with the use of a lastic sling. At the time of the incident, you were holding a bell knife measuring about 68 centimetres.
10. Your father took your wife and your daughter of 3 years old to one Leman's house and hid them there. Your father also was hiding there with your wife.
11. On 24 November 2022, you find out that your de-facto wife had travelled back to Luganville. You went and confronted your father and Leman Tokal. You used a lastic sling and you shot your father's hand with stones using that sling.
12. On 24 November 2022, you were arrested by the Police. The police searched you and they found a cannabis plant in your possession. It was spotted inside your hand bag. The police also found a cannabis plant cultivated in front of your house.
13. The cannabis substance was tested positive. The net weight is of 3.0 grams.
14. The crime scene album showed a bell knife, stones, sling, bags of clothes and a broken slipper of your defacto wife.
15. Your records of interview showed you were cautioned and you admitted the allegations charged against you.
16. You were arrested and remanded in custody and you were released on bail.

**C. Sentence Start Point**

17. Threats to kill a person carries a maximum sentence of 15 years imprisonment. Domestic violence against a member of family carries a maximum penalty of 5 years imprisonment or a fine not



exceeding VT100,000, or both. They are serious offences as reflected by the maximum sentences imposed by law.

18. In this case, there was no personal circumstances for the offending but the following aggravating factors exist:

- A bell knife was used as a weapon;
- A lastic sling using stones was used;
- Properties of the complainant's were destroyed (the lock of Sam Tokal's house was destroyed by you. The bags of clothes of your wife were damaged;
- More than a victim.

19. A start point sentence of 4 years is imposed for the offence of threats to kill a person, 3 years for domestic violence 6 months imprisonment for possession of cannabis and also 6 months imprisonment for cultivation of cannabis.. They will run concurrently to each other. Your total start point sentence is 4 years imprisonment.

#### **D. Mitigating Features**

20. You are 30 years of age. You have completed Year 10 certificate at Hogharbour Secondary School. You also attended Londua Technical School with mechanics and carpentry skills. You do private work by fixing cars while you build a classroom at Saint Michel. You are a first time offender and you do not have previous convictions. You have a clean records. I allow a reduction of 6 months to reflect your unblemished record.

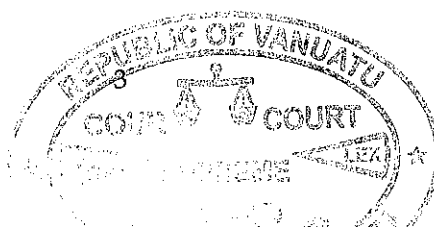
21. You have some insight of what you did to your wife and your family. You have realised that you have made mistakes. You say sorry and apologise to your wife and your relatives. I allow another 6 months reduction to reflect your insight and apologies.

22. You pleaded guilty at the first opportunity given to you. I allow 33% reduction from your sentence start point.

#### **E. End Sentence**

23. Your end sentence is 24 months imprisonment.

24. I sense from the Court file records that you were arrested and detained but the pre-sentence report does not provide the date of your remand and how long you were remanded before you were released on bail.



25. I consider the seriousness and gravity of your offending. I consider your personal circumstances. They do not justify a suspension of your imprisonment sentence.

26. You are sentence to 2 years imprisonment.

27. Section 50 of the Penal Code applies to your situation. Section 50 provides:

*"Commencement of sentence*

*50. If the offender has not been held in custody pending trial and no warrant of arrest or remand is issued against him or her at the time of conviction in the circumstances authorized by the rules of criminal procedure, no sentence of imprisonment may be enforced until the time of appeal against such sentence has expired or the offender earlier elects to begin serving his or her sentence."*

28. You shall start to serve your sentence of 2 years on Thursday 18 May 2023.

29. If you elect or choose to start serving your sentence of 2 years imprisonment earlier than 18 May 2023, you can do so.

30. I direct that the Correctional Services Centre to manage your situation and to record the date you start serving your sentence.

31. If your fail to serve your sentence after 14 days that is on Thursday 18 May 2023, an application for your arrest should be issued and once arrested, you should be brought under the custody of the Correctional officers and be kept there to serve your 2 years imprisonment sentence.

32. You have 14 days to appeal this sentence if you are unsatisfied with it.

**Dated at Luganville, Santo, this 5<sup>th</sup> day of May 2023**

**BY THE COURT**

**Chief Justice V. Lunabek**

