

**PUBLIC PROSECUTOR**  
**v**  
**DAVID YAUMA**

**Coram:** *Hon. Chief Justice V. Lunabek*

**Counsel:** *L Young for the State*  
*K B Karu for the Defendant*

**Date of Plea:** *22 Feb. 2023*

**Date of Sentence:** *26 May 2023*

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**SENTENCE**

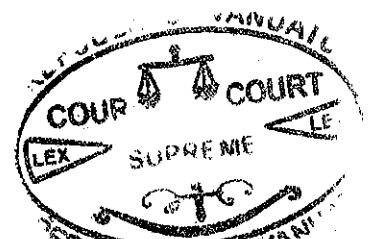
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**A. Introduction**

1. Mr David Yauma, you appear today for sentence having being pleaded guilty on 22 February 2023 to one Count of threats to kill a person and one count of intentional assault on the body of another person.

**B. Facts**

2. You are 27 years of age. You are from Port Resolution, Tanna. You are a member of Presbyterian Church. The complainant of this case (Mery Ina) is your aunt.
3. This offending occurred on the morning of 1 January 2023 after Mery Ina (the complainant) left her house at Erakor Bridge and walked her way to her son's land at Erakor Bridge area. The complainant met you on her way to her son's land there.
4. You blocked her and questioned her why she assaulted your partner. The complainant responded that she did not assault your partner.
5. Then you punched her on the head with your right hand particularly on the left side of her ear. She almost fell over. She bled, felt pain and cried as a result.



6. Also, you verbally abused and threatened to kill her to this effect: "*fuck you, deep skin, bae me killim you pispis, sapos yu reportem me long police, bae me kamaot long prison bae me kilim dead you*".
7. She reported the matter to the police that same day.
8. At that time, Joseph Meake (complainant's husband) was present and he saw you assaulting his wife.
9. Under caution, you admitted assaulting the complainant. You said you were under the influence of alcohol at that time.

**C. Sentence Start Point**

10. The offence of threats to kill a person carries a maximum penalty of 15 years imprisonment. The offence of intentional assault causing damage of temporary nature carries a maximum penalty of 5 years imprisonment.
11. There is no personal factors for the offending but the following aggravating factors exist in this case:
  - There is a degree of planning and pre-meditation. You blocked the victim while she was on her way and you questioned her why she assaulted your partner ahead of punching the victim;
  - You took justice into your own hands after you asked her why she assaulted your partner and you punched her;
  - Abusive words – you used abusive words against the victim such as "*fuck you, deep skin, bae me killim you pispis*" apart from threatening to kill her;
  - The victim suffered pain, bleeds and cried. Not only that, she was almost fallen over as a result of the punch you did to her.
12. The Prosecution submitted a sentence start point of 4 years imprisonment for threats to kill the victim (count 1) and 3 years imprisonment for intentional assault causing temporary damage (count 2). The defence submitted for a sentence start point of 3 years imprisonment for threats to kill and 2 years imprisonment for the intentional assault.
13. I set a sentence start point of 4 years imprisonment for threat to kill and 3 years imprisonment for intentional assault. They run concurrently. Your sentence start point is of 4 years imprisonment.



**D. Mitigating Factors**

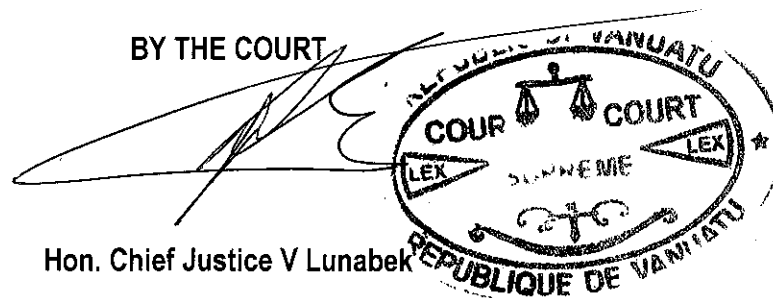
14. You are a first time offender. You do not have previous conviction record. You have a clean record. I reduce your term of imprisonment by 6 months to reflect your clean record.
15. You have apologized for your wrongdoing to the complainant. You have performed a custom reconciliation ceremony. You have provided the following items as part of your custom reconciliation ceremony: 4kg chicken, one (1) mat and 4kg of kava. The victim accepted your apology. I give you another 6 months allowance to reflect this.
16. You pleaded guilty at the first opportunity given to you by the authorities. I give you a discount of 33% reduction of your sentence start point.

**E. End Sentence**

17. The remaining balance of your imprisonment is 24 months. That is your end sentence.
18. You have been remanded in custody since 5 January 2023 until sentenced today. The period you have spent in pre-custodial period will be take into account in your favour.
19. I consider the circumstances of your offending. I consider your personal circumstance. The nature of the offences are serious offences. I note your admission of guilty due to your inability to control your anger along with the consumption of alcohol and marijuana (cannabis). Your end sentence of 24 months imprisonment cannot be suspended.
20. You shall serve your 24 months imprisonment which is deemed to start on 5 January 2023 to take into account of your pre-custodial period.
21. You have 14 days to appeal this sentence if you are unsatisfied with it. The 14 days starts today 26<sup>th</sup> May 2023.

**DATED at Port Vila, this 26<sup>th</sup> day of May 2023**

**BY THE COURT**



**Hon. Chief Justice V Lunabek**