

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

-V-

ROMARIO TIOME

Coram: Mr Justice Oliver A Saksak
William Falau - Clerk

Counsel: Mr Bill Bani Tangwata - for Public Prosecutor
Mr Saling Stephens for the Defendant

Charge: (As Amended) Section 107(d) Penal Code Act [CAP.135]

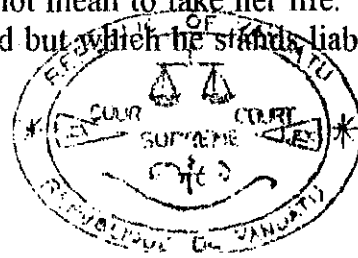
Plea: Guilty

SENTENCE

The Defendant appears before me today and pleaded guilty to one count of intentional assault causing death under section 107(d) of the Penal Code Act [CAP.135]

This assault took place at Port Olry on 4th February 1998. The deceased was the Defendant's defacto wife. They have two children by that relationship. The defendant worked with National Tourism Office since 1993 as Accountant. He had been on leave and could not get back to work as the deceased was stopping him. This caused some disagreements between them for about three weeks. On 4 February the deceased left the Defendant and their child of three months old at the house. She went to the beach and set down for about three hours. The baby was crying and this made the Defendant slapped her and kicked her on her back. The deceased fell to the beach and was unconscious. She was brought to the local dispensary but the dresser was unable to help her. He suggested that the victim be brought to Hospital in Luganville. On the way the victim died. Post Mortem was performed on her and the finding shows that the cause of death was rupture of the spleen.

The defendant admits the assault. He says he did not mean to take her life. It was an unfortunate accident which he did not intend but which he stands liable



in law. Had he not applied the force or assault on the body of the deceased, no injury would have resulted and no death would have followed. But he admits he kicked her on the back with a black shoes which was tendered into court as Exhibit (1). That is what caused the ruptured spleen.

In mitigation the court considers that the Defendant is a first offender. He admits his guilt freely. He cooperated with the police in their investigation. He has shown remorse regarding his actions. He has indicated that he would not repeat his actions. He has spent some 8 months since he was arrested and detained on 5th February 1998.

The maximum penalty for this offence is 10 years imprisonment. Having considered the mitigation factors raised by the Defendant's counsel I consider that the appropriate sentence I can impose on the Defendant is a total of 4 years imprisonment. It is ordered that the 8 months he has already spent in jail be deducted from these 4 years. That means that the defendant has a balance of three (3) years and 4 months to serve.

Dated at Luganville this 6th day of October, 1998.

BY THE COURT



OLIVER A SAKSAK
Judge of the Supreme Court

