

**BETWEEN: Public Prosecutor**

**AND: Springer Vala**  
**Defendant**

*Date of Plea and oral Sentence:* **10<sup>th</sup> September 2020**

*Coram:* **Trevor NAIEU**

*Appearances:* **Terry Toas for Public Prosecutor**  
**Defendant in Person (Self represented)**

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**SENTENCE**

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**A. Introduction**

1. The defendant *Springer Vala* pleaded guilty (“*Yes hemi tru*”) to an offence of Domestic Violence contrary to section 10 of the Family Protection Act and Intentional Assault contrary to section 107 (b) of the Penal Code Act on the 10 September 2020.

**B. Brief Background facts**

2. The victim is the defendant’s de-facto partner and they have 5 children together.
3. On or about the 27 day of August 2020, the defendant under the influence of alcohol liquor cuts the victim with a machete on both her hands, fingers and neck causing her very serious injuries. She was then on that same day, taken to and admitted for medical treatment at the Norsup hospital in Malekula then few days later transferred to Port Vila central hospital for further medical treatment.



**C. The Law**

4. Section 10 of the *Family Protection Act* states:

***“10 Domestic Violence Offence***

(1) *A person who commits an act of domestic violence is guilty of an offence punishable on conviction by a term of imprisonment not exceeding 5 years or a fine not exceeding 100,000Vatu, or both.”*

5. Section 107 (b) of the *Penal Code Act Cap 135* states;

***“107. Intentional assault***

*No person shall commit intentional assault on the body of another person.*

*(b) if damage of a temporary nature is caused, imprisonment for 5 years;”*

**D. Aggravating factors**

6. a). Relating to the offence

- Premeditated act of violence while under the influence of alcohol liquor
- Serious physically injuries on both the victim’s hands, fingers and neck
- Use of a machete (weapon)
- Repeatedly cuts the victim with the machete although he saw the victim was already injured and covered with blood from the first cut and pleading him to have mercy and stop but he did not. At all the material times when the defendant told the victim that he will cut her with the machete and went and took the machete, the victim cries out loud and plead for him not to do that because if she dies who will look after their 5 children but the defendant shows no care to what the victim was telling him and repeatedly cuts the victim while their children look on and cries out begging their father the defendant to stop but he did not stop.
- The defendant on many occasions in the past, threatened to cut the victim with the machete and continue telling her when he gets upset at her that one day he will just cut her till she dies with a machete.

b). Relating to the offender

- Lack of remorse to the victim



- Lack of remorse to their children who saw what he was doing to their mother
- Have no respect to the victim showing a betrayal of trust, love and care.

**E. Mitigating factors**

7. a). Relating to the offence

- None

b). Relating to the offender

- Early guilty plea admitting the offending at the earliest opportunity
- First time offender
- Shows remorse for the offending.

**F. The explanation of what instigated the violence**

8. In his defense, the defendant stated that he commit such violent act to the victim because he was very upset with the victim for consuming alcohol liquor and not looking after their children the night before the incident. On the 26 day of August 2020 the day before the incident, an extended family member in the nearby village got married and organized a celebration for family members and friends to celebrate their wedding. The defendant had already consumed alcohol liquor with his friends in the early evening and went ahead to part take in the celebration which will be a public dance night. The victim also wanted to be part of the celebration therefore she made sure that their children ate then she puts them to sleep then decided to have few drinks with his brother's wife and then later went to the same nearby village to join the celebration. On that night during the public dance celebration, the defendant spotted the victim in the growth and went over to her and fiercely ask her who gave her permission to consume alcohol liquor. The victim explained that she and her brother's wife wanted to be part of the celebration therefore consumed few drinks but the defendant accept not this response and angrily walked away to join his friends in the growth. They both enjoyed the night and the victim went home in the early hours of the morning at around 1:30am in the morning with her brother's wife and went straight to bed. At around 7:15am that same morning on the 27 August 2020, the defendant came back home after a whole night of drinking and enjoying himself and approached the victim in the kitchen preparing breakfast and told her, "*bai mi katem yu naia lo knife*" meaning "*today I will cut you with the machete*" then it happened.



**G. Verdict**

9. Conviction is hereby entered against the defendant for the offences of Domestic Violence and Intentional Assault.

**H. Sentence**

10. I decided for a custodial sentence adopting the starting point of 24 calendar months.

**I. End Sentence**

11. I reduce the adopted starting point sentence for the defendant's *early guilty plea* leaving the end sentence of 20 calendar months custodial sentence.

**J. Suspension of Sentence**

12. I consider and agree with the discussions with regards to the *excuses* that domestic violence perpetrators usually raises in their defense saying it causes or instigate the violence in *Public Prosecutor v Batick [2020] VUMC 7* and re-affirms that such excuses will never be accepted by the Court to be reasonable and justifiable. The defendant's version of facts in this matter blaming the victim to have instigated the violence is an unjustifiable and unreasonable excuse not acceptable by the Court to commit such inhuman and horrific violence causing serious injuries to the victim.

13. The sentence of 20 calendar months custodial sentence will not be suspended and is to take effect immediately.

**K. Reasons for Sentence**

14. a). Perpetrators of domestic violence (specifically against women and other vulnerable groups of people in the community) must know that domestic violence can and will never be justified in any shape, size or form.

b). Individual Specific deterrence: This sentence is for the defendant to understand that what he did is not acceptable and must not do the same again or he will be punished with the similar sentence or a harsher sentence.



c). General deterrence: The wider community will hear this sentence and will be frightened to commit the offence of domestic violence. The people must know that domestic violence is not tolerated by the Court especially against woman and other vulnerable groups of people in the society because a perpetrator of domestic violence will be punished according to the law.

**L. Right to Appeal**

15. The defendant is advised of his right to appeal this sentence within 14 days if he does not agree with it.

**Dated at Lakatoro this 11<sup>th</sup> day of September 2020**

**BY THE COURT**



**Trevor NAIEU**

**Magistrate**

