

PUBLIC PROSECUTOR

V

URIEL LEO

Date of Sentence: 16th October, 2020 @ 2:30PM

Before: FSam

In Attendance: Mr Karae_T for the Public Prosecutor

Mr Rantes_H for the Public Solicitor

Copy: The Public Prosecutor, The Public Solicitor, Defendant.

SENTENCE

Introduction

1. The defendant, Mr Uriel Leo pleaded guilty to one (1) count of Domestic Violence contrary to section 4(a) and 10 of the Family Protection Act.

Brief Facts

2. The complainant wife of the defendant, had lodged an official complaint to the Police alleging Mr Leo being violent towards her and her children. On the 7th of September, 2020, after his wife had filed a petition for divorce in the Magistrate's Court, Mr Leo had told her to follow him to court to withdraw her petition, where she refused, and Mr Leo got angry and punched her on the stomach and threw her against a water pipe on which she hit her head and got unconscious.

The Law



3. Section 4 & 10 of the Family Protection Act states:

4. Meaning of domestic violence

(1) A person commits an act of domestic violence if he or she intentionally does any of the following acts against a member of his or her family:

(a) assaults the family member (whether or not there is evidence of a physical injury);

...

“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.

....”

Aggravating and Mitigating Factors

4. This Court sought and considered submissions from both State Counsel and Defence, where both have assisted with relevant case authorities for consideration, in respect of the offence, the nature of the offending, and factors personal to Mr Leo.

5. Aggravating factors that were considered and which reflected on the seriousness of Mr Leo’s offence, were that Mr Leo got angry and assaulted his complainant wife of 28 years, being a vulnerable person in her situation, and the nature of his offending, where he punched her on the stomach and threw her against a water pipe, showing he had no respect for Ms. GGG and family



members at that time, and that being a former police officer who is well-versed with the law, also showed he had no respect for the law. While State submitted that Mr Leo had a history of violence towards the complainant, there was no evidence of same produced before the court, for consideration except on the facts as presented.

6. On Mitigation and factors personal to Mr Leo, I accept that he has no priors, that he is remorseful and cooperated with the police, by reporting himself to the Police after committing the offence, where he was detained for 49 hours before appearing in court, and with further remand, had been kept for 16 days in custody, and that he had pleaded guilty at the earliest available opportunity given him.

7. Having considered the relevant factors, I am satisfied the defendant Mr Leo did assault his wife, and committed the offence of Domestic violence, and therefore, I find him guilty and convict him accordingly.

Starting Point

8. In considering the nature of the offending with reference to the relevant case authorities submitted, and the law and maximum penalty entailed for the offence of Domestic violence, I set a starting point of 12 months imprisonment.

Deductions and End Sentence

9. Mr Leo's guilty plea entitles him to a 1/3 deduction, and further one month deductions for his personal circumstances, including no priors, being remorseful, cooperation with the police and being on good behavior. Further deduction of one month is granted for his pre-custody. This leaves an end sentence of 6 months imprisonment.

10. This sentence is appropriate as a deterrence and punishment for Mr Leo and like-minded offenders not to commit like offences, and is also



necessary to act as a warning to all perpetrators of domestic violence that this court will not treat any offences of domestic violence before it lightly.

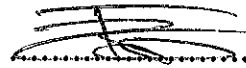
Suspension

11. And whether or not this sentence can be suspended, I consider suspension, in light of Mr Leo having had spent time in custody, and this should be enough to serve as punishment for his wrongdoing, and hopefully that he did learn a lesson from this, and not commit further offences whilst he is re-integrated into the community. Therefore I grant suspension of the 6 months imprisonment for 12 months (1 year) in accordance with section 57 of the Penal Code Act. This means Mr Leo will not suffer immediate imprisonment, but is allowed to go back into the community, however, he is ordered not to commit further offences or his suspension be automatically uplifted and he serves the term of his sentence.

12. Mr Leo has 14 days to appeal from date of his sentence if he is not happy with it.

DATED at Port Vila, this 16th day of October, 2020.

BY THE COURT


FSam
Magistrate

