

BETWEEN: Public Prosecutor

**AND: Wilsen Petro
Defendant**

***Date of Plea and oral
Sentence: 8th September 2020***

Coram: Trevor NAIEU

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

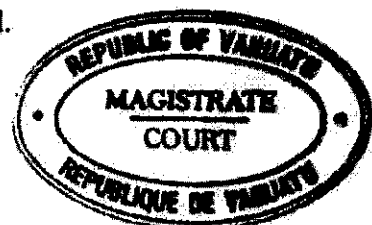
SENTENCE

A. Introduction

1. On the 8 day of September 2020 the defendant *Wilsen Petro* pleaded guilty ("Yes *hemi tru*") to an offence of Domestic Violence contrary to Section 4 and 10 of the Family Protection Act No. 28 of 2008.

B. Brief Background facts

2. The victim is the defendant's de-facto partner.
3. The victim and the defendant started living together as being in a relationship in the year 2019 whereby in December of that same year, they decided to travel to the defendant's home island in Malekula for family reasons personal to the defendant.
4. Together they have a daughter who is to date 8 months old.



5. The defendant has a habit of desire to command and demand sex every single day from the victim even when she was not in the mood, while she was on her period (menstrual cycle) and even during the whole 9 months of her pregnancy period and again just 3 days after giving birth to their daughter and this continues to date.
6. This daily cycle of violent sexual command and demand physically and mentally affected the victim on a daily basis because she has to submit to the defendant's violent sexual desire otherwise the defendant will assault her.
7. The victim was daily subjected to uttered threats of violent and abusive words uttered to her even threats using a weapon (knife) and physical assaults whenever she refuses to submit to the defendant's violent sexual demand.
8. The victim with the assistance of the Malampa Counselling Center fled from the defendant (few days before the plea hearing of this matter) to Efate Island with their 8 months old daughter in fear for her safety and because she decided to walk away from her sexually violent and abusive relationship.

C. The Law

9. 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."*

D. Aggravating factors

10. a). Relating to the offence

- Premeditated daily without consent of the victim
- Major impacts physically and mentally on the victim
- Use of weapon (knife)
- Uttering of abusive and threatening words and physical assault to achieve his sexual demand



- Daily repetition although when the victim was pregnant and also even during her menstrual cycle showing no respect and care to the victim.

b). Relating to the offender

- Lack of remorse to the victim
- Have no respect to the victim showing a betrayal of trust, love and care.

E. Mitigating factors

11. 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. Verdict

12. Conviction is hereby entered against the defendant for the offence of Domestic Violence.

G. Sentence

13. I decided for a custodial sentence adopting the starting point of 18 calendar months custodial sentence.

H. End Sentence

14. I reduce the adopted starting point sentence for the defendant's *early guilty plea* AND a *first time offender* leaving the end sentence of 12 calendar months custodial sentence.

I. Suspension of Sentence

15. I consider the discussions with regards to domestic violence perpetrators in *Public Prosecutor v Batick [2020] VUMC 7* and decided to suspend the whole sentence because;



- The sexual abuse and violence just recently started in the past 8 months of their relationship and living together compared to other perpetrators of domestic violence who have a history of domestic violence with their partners for much longer than 8 months.
 - The victim has made the right decision to flee from the sexually abusive and violent relationship therefore this will penetrate the defendant's mindset preventing him from committing such acts of violence in the future.
 - This sentence is a deterrent to the defendant and other men in the community that women cannot be taken to always and must submit themselves to sexual desires of men.
16. The defendant's custodial sentence is suspended for a period of 12 calendar months meaning the defendant must remain offence free within the next 12 months to be able to remain in the community.

J. Community service

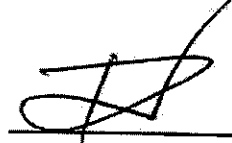
17. The defendant is ordered to serve 20 hours of community service.

K. Right to Appeal

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

Dated at Lakatoro this 10th day of September 2020

BY THE COURT



Trevor NAIEU

Magistrate

