

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**
(Criminal Jurisdiction)
Held at Isangel, Tanna

CRIMINAL CASE No.103 OF 2011

PUBLIC PROSECUTOR -v- SAKI NATUMAN

Coram: Chief Justice Vincent Lunabek

Counsel: Mr Tristan Karae for the Public Prosecutor
Mr Henzler Vira for the Defendant

Date of plea: 25 August 2011

Date of sentence: 26 August 2011

JUDGMENT

This is the sentence of the Defendant Saki Natuman. Mr Saki Natuman, on 25 August 2011, you entered a guilty plea to one count of threats to kill contrary to section 115 of the Penal Code Act [CAP.135].

Section 115 of the Penal Code Act provides:

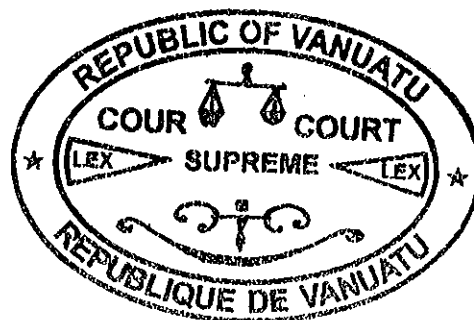
"No person shall, knowing the contents thereof, directly or indirectly, cause any person to receive any oral or written threats to kill any person.

Penalty: Imprisonment of 15 years."

It is a serious offence. The seriousness of this offence is reflected through the maximum sentence of 15 years of imprisonment imposed by law.

The brief facts are set out as follows:

The defendant Mr. Natuman is the father of the complainant who is 7 years of age and resides at Loukweria Village with the defendant.



On or about the 25th of April 2010, around 8am that morning the complainant was outside playing with friends and his other brother Joses Saki. The defendant at that time was angry with his mother in law and 2nd wife Mrs. Serah about what they have been saying about the defendant.

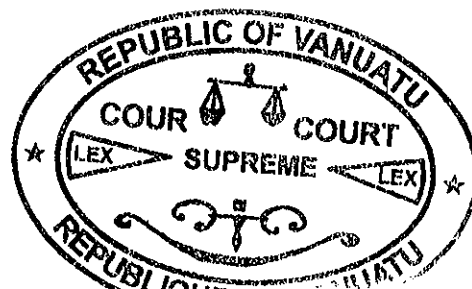
Being angry the defendant called the complainant to go into the house and bring his tobacco. When the complainant went into the house, the Defendant threatened the complainant that he would cut the complainant's neck. The Defendant continued threatening the complainant and the Defendant then shut and locked the door with the complainant still in the house. The complainant hearing that his father threatened to cut off his head, was scared, frightened and shocked and began crying. The defendant turned and threatened the others including the complainants' brother for them not to open the door to the house to let the complainant out until he finds Mrs. Serah to explain about what they were saying about him.

The complainants' brother went and told his uncles about what his father the defendant had done to the complainant. The complainants' uncle's then came over and when the complainant heard them was crying out the uncles to help him out of the house. The uncles then opened the house and took the complainant away from the defendant. Mr. Tess Nakat an uncle of the complainant who removed the complainant from the house informed that the defendant always threatens to kill the complainant and brother and that this is not the first time for this to happen.

On or about the 27th of May 2010 the defendant was arrested and was brought to the Police Station at Isangel Police station. The defendant was cautioned and interviewed regarding the allegations laid against him. The defendant admitted to the allegations laid against him.

In this case, the seriousness of the offending and the circumstance of the offending are aggravated by the following factors:

1. The complainant is a 7 year old child.
2. The complainant was frightened and scared for his life.



3. The Defendant is the father of the complainant.
4. The Defendant has a tendency of being abusive to his children.
5. Disobedience by the Defendant to the summons to appear on the 22nd of August 2011 for plea and so a Bench Warrant was issued for your arrest and to bring you in Court for your pleas.
6. You threatened and locked up the child complainant of 7 years of age as a means to make his mother Serrah come back to you.

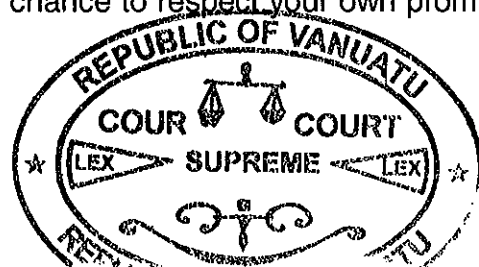
I sentence you to 4 years imprisonment as a starting point.

The Probation officer informs the Court in his oral report that you are 42 years of age. You are from Loukaria village, Lenakel, Tanna. You live first with a woman. You do not have children with her. You divorce that woman. You now live with 2 women as your wives. You have 4 children with your first wife (Nipina) and 2 children with your second wife by the name of Serrah. Serrah is the mother of the complainant child of 7 years old. You have a total of 6 children with your two wives. You are a gardener.

You gave an explanation of your offending to be that your second wife (Serrah) left you to go back to her family because it is thought by her mother and family that it is not appropriate for Serrah to live with you because your first wife (Nipina) is the older sister of Serrah. So you locked up the complainant child of 7 years of age and threatened to kill him with the thought of making Serrah returned back with you. You said you did not have any knife at the time and the prosecution accepted that you did not have a knife at the time of your threats to the child.

In mitigation, you are a first time offender. You are remorseful for you offending. You say sorry to the child complainant and you paid fine of VT500 to the child.

I reduce your sentence of 4 years to 2 years and 6 months imprisonment to reflect your guilty plea and other mitigating factors. I ask myself the question as to whether or not I should suspend your imprisonment sentence. You tell the Court personally that you will stop threatening your children. I must inform you that this is not the sort of case that a Court will suspend. I give you the chance to respect your own promise not



to threaten your children anymore after this case.

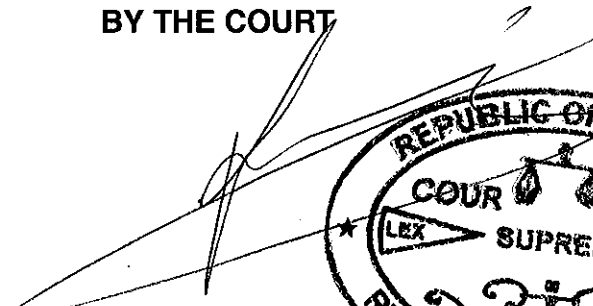
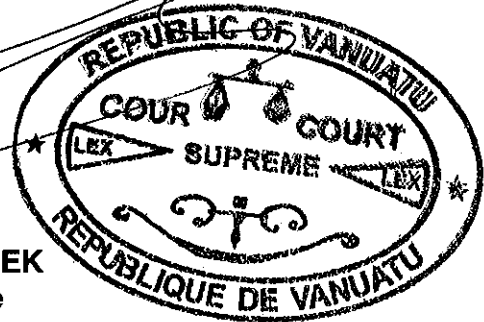
I suspend your imprisonment sentence of 2 years and 6 months for a period of 2 years. If you fail to honour your promise and you offend again before the end of 2 years period of suspension and upon your conviction on the new charge, your 2 years and 6 months imprisonment sentence will be re-activated.

In addition, I order that you shall perform 100 hours of community work.

You have 14 days to appeal this sentence if you are unsatisfied with it.

DATED at Isangel, Tanna this 26th day of August 2011

BY THE COURT



The seal is circular with the text "REPUBLIC OF VANUATU" at the top and "REPUBLIQUE DE VANUATU" at the bottom. In the center, it says "COUR SUPREME COURT" with a scale of justice above it. Two banners on either side of the scale contain the word "LEX".

**Vincent LUNABEK
Chief Justice**