

IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU  
(Criminal Jurisdiction)

Criminal Case No. 40 of 2012

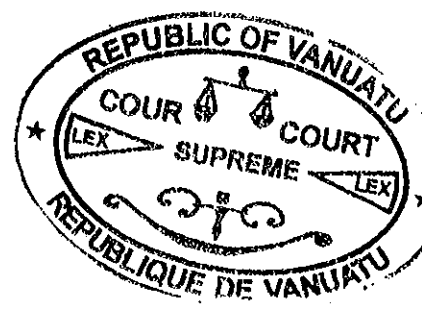
**PUBLIC PROSECUTOR vs. TALECK SABLAN**

Coram: Judge Aru

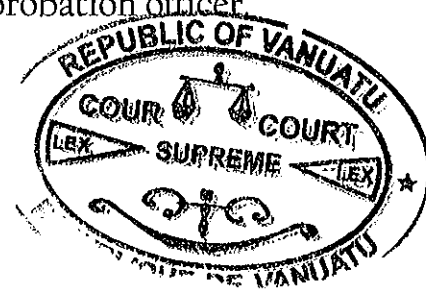
Counsel: Mrs. T. Harrison for Public Prosecutor  
Mr. J.W. Timakata for the Defendant

**SENTENCE**

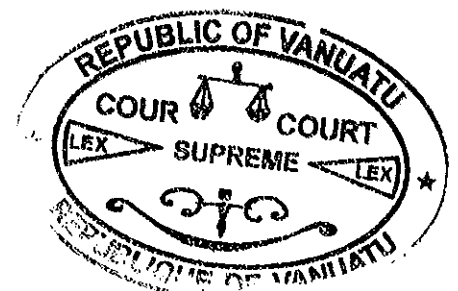
1. The Defendant Taleck Sablan pleaded guilty on 18 June 2012 to three counts as follows:
  - (a) Count 1: Reckless driving causing death, contrary to section 13 of the Road Traffic Control Act [CAP 29] ("RTC Act");
  - (b) Count 2: Driving under the influence of alcoholic liquor contrary to section 16 of the RTC Act;
  - (c) Count 3: Careless driving, contrary to section 14 of the RTC Act.
2. Before the hearing of submissions on sentencing, the Defence counsel informed the Court that although a death resulted from the reckless driving, the Defendant pleaded guilty to count 1 in relation to the offence under section 13 as was put to him in the information.
3. Following the plea, the Public Prosecutor was informed by the Defence counsel as to whether section 13 was the correct provision. Having heard nothing from the Public Prosecutor he now objects to any request to amend the charge in relation to count 1 as enough time was allowed after the Prosecution was notified by the Defence Counsel.
4. The Public Prosecutor objected on the basis that it was merely a typing error and count 1 should be read as referring to section 12.



5. I made a ruling that the Defendant entered his guilty plea to count 1 in respect of the offence under section 13. The reason being that once notified by the Defence counsel, the Public Prosecutor should have applied to amend the charge in relation to count 1 to allow the Defendant to retake his plea.
6. No such steps were taken and for the Public Prosecutor to now say that it was an error during submissions on sentencing was not acceptable and will not be allowed.
7. Taleck Sablan you are before the Court today for your sentencing. You are 36 years old and you are from the island of Ifira. You are married and you have three children.
8. The facts as tendered by the Prosecution in their brief of facts are that on Saturday 3<sup>rd</sup> March 2012 at around 4.45 am a serious traffic accident occurred at the water fountain at Fatumaru Bay. At that time you were drunk and driving a single cabin Nissan Nivara registration No. 9073 coming into town from the Moorings Nightclub.
9. You were driving at high speed and nearly hit one vehicle near the Chantilise. Luckily it turned into the Chantilise area. You then continued at very high speed and hit a second car, a grey Renault taxi registration No. T12630.
10. The collision of the two vehicles, the Nissan driven by yourself and the Renault taxi occurred at the water fountain at Fatumaru Bay. The Nissan hit the front left side of the Renault taxi and damaged it then continued and hit the ground and stopped immediately. The victim who was sitting behind with some friends were all thrown forward by the force of the impact onto the highway. The victim was declared dead after he was brought to the Vila Central Hospital.
11. That fatal accident occurred because you were driving recklessly under the influence of alcohol without due care and attention. You were then arrested on that same day and detained in cell No.6 but in the afternoon of that same day you were released on bail.
12. In sentencing you today I have taken into account the submissions made by the Public Prosecutor and Defence counsel on your behalf. I have also considered the pre-sentence report prepared by the probation officer.



13. I must remind you that causing death by reckless driving is a serious offence as the penalty is a fine not exceeding VT500.000 or imprisonment for a term not exceeding 5 years or to both. You are fortunate that the Public Prosecutor overlooked the error in the charge and you were charged with the offence under section 13 instead of section 12 which is far more serious. You were only charged with the offences of reckless driving, careless driving and driving under the influence of alcohol. All these offences arise out of one occasion, the accident on 3<sup>rd</sup> March 2012. Reckless driving is the most serious out of the three offences you were charged with as it carries a penalty of a fine not exceeding VT100.000 or imprisonment for a term not exceeding 1 year or to both. You committed an offence therefore you must be held accountable for your actions as a deterrence to others.
14. Given the seriousness of your offending the starting point for your sentence is 9 months imprisonment. Your offending is aggravated by the fact that you were driving at very high speed with passengers at the back in the tray of the truck and you were very drunk and became a danger to the public when you drove the vehicle involved in the accident which led the death of the deceased.
15. In mitigation you are a first time offender and you entered an early guilty plea. Defence counsel on your behalf provided the Court with good references from your chief, a pastor and your employer which show that your Chief places a lot of trust in you as his policeman within the Ifira community and you have a good employment record with Ifira Port Development and Services Company Ltd being your employer. Your pre-sentence report shows that you are remorseful for your actions but your attempts in performing custom reconciliation were refused by the families of the deceased.
16. Taking into account both aggravating and mitigating factors, your sentence is further reduced by  $\frac{1}{3}$  to reflect your early guilty plea leaving an end sentence of 6 months imprisonment. Your offending warrants a custodial sentence, however Defence counsel on your behalf submits that any custodial sentence should be suspended.
17. In considering whether I should suspend your sentence I am guided by what the Court of Appeal said in Jenkins v. Public Prosecutor [2000]VUCA5 that:-



*"In the case of a first offender with a long history of good driving, good character, good employment record and involvement in community affairs, it is a very serious step to send that person to gaol. Suspension of the sentence, which allows the best opportunity for rehabilitation, will after be the appropriate course."*

18. I therefore sentence you as follows:-

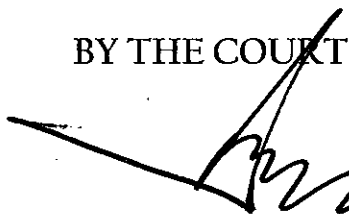
- 1) Count 1: 6 months imprisonment which is suspended for a period of 1 year;
- 2) Count 2: You are disqualified from driving for a period of 1 year;
- 3) Count 3: 4 months imprisonment which is suspended for a period 6 months.

19. These sentences run concurrently and they are suspended which means that you must not reoffend or commit another offence during the period of your suspended sentence. If you do, your sentences will be re-activated automatically and you will be required to serve them in custody.

20. You have 14 days to appeal this decision if you are not happy with it

DATED at Port Vila this 6<sup>th</sup> day of September, 2012.

BY THE COURT



D. ARU  
Judge

