

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

Criminal Case No.11 of 2011

**PUBLIC PROSECUTOR**

**-V-**

**TIMOTHY VEYO DEIDEI**

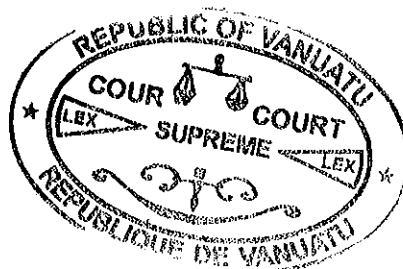
**Coram:** Justice D. V. Fatiaki

**Counsels:** Mr. T. Karae for the State  
Mr. B. Livo for the defendant

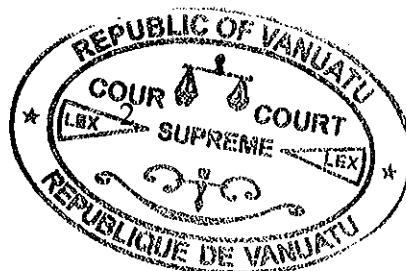
**Date of Ruling:** 12 April 2013

**SENTENCE**

1. Timothy Veyo Deidei, you were convicted on your guilty plea on 12 December 2011 to an offence of Intentional Assault contrary to **Section 107 (c)** of the **Penal Code** which carries a maximum penalty of 5 years imprisonment. At the time with the agreement of counsels, sentencing was deferred to await the outcome of your trial on the remaining count on the information. That has now been disposed of with your acquittal.
2. The particulars of the admitted charge are that you assaulted your wife **Jeanne Nereana Sanmarie** on the evening of 9 November 2011 at **Anelcauhat village, Aneityum** causing her permanent injury. The injuries sustained by your wife as a result of the assault on her included extensive swelling to her face, mouth and head and, more particularly, three (3) of her front teeth were loosened and bleeding.
3. It is common ground that just prior to the assault, you and your wife argued about having sex with you removing the mosquito net from her bed. Your wife followed you out of the bedroom and you both struggled. Asked about the incident the complainant said, the defendant assaulted her "... because he wanted sex and I was not well so I refused and he accused me of sleeping with another man. He pulled the mosquito net and pulled me to another room. We struggled and I squeezed his penis through his trousers. He punched my mouth."



4. The defendant confirmed in his evidence that he had assaulted his wife because "... *she got hold of my private part and tried to bite it and I pushed her head but she persisted and that's when I assaulted her*". In cross examination the defendant agreed that before the assault he had touched his wife for sex and she refused his advances.
5. It is an unpleasant task to sentence any man who assaults a woman moreso, where the woman is the man's wife of 20 odd years. But, every husband must know that superior physical strength and marriage does not mean "*sex on demand*" nor is it a license to assault his wife as he pleases.
6. Sexual intercourse is an act of love between consenting adults to be enjoyed and for the procreation of children. It is not an exercise of power nor should it be debased into an unloving act or a conjugal duty to be performed, however unreasonable and unwilling one of the participants may be.
7. The assault on your wife has now caused her permanent injury and she may well lose her loosened teeth in time. It was clearly a forceful assault and succeeded in loosening your wife's grip on your genitals. I accept that the assault on your wife was not entirely unprovoked, and, although it is not a defence to the charge, it cannot be ignored in the sentencing process.
8. I also accept that you pleaded guilty to the offence at the earliest opportunity and that counts in your favour as indicating an acceptance of responsibility and showing remorse on your part.
9. Sexual intercourse within marriage is not something to be demanded or claimed as a right. Husbands must learn to accept that "*no means no*" and to exercise self-control and restraint towards their wives. Equally for wives, intercourse is not to be lightly refused or denied in a summary and unloving manner nor should it be used as a bargaining chip or considered a privilege to be granted or unreasonably withheld on a whim. As with everything in marriage, there must be give and take.
10. **Timothy Veyo Deidei** what you did to your wife is something that will remain with you both for the rest of your married life and with your efforts, I hope the physical and emotional scars will heal over time and you will both re-discover the love that once drew you together to make the lifelong commitment that you made to each other on your wedding day.



11. The sentence of the Court is three (3) years imprisonment which I reduce to two (2) years in recognition of your guilty plea and, in all the circumstances, I order that the sentence be suspended for 2 years.
12. This means that you do not have to go to prison today but I must warn you that if you commit another offence within the next 2 years, then, in addition to any other sentence that you may be required to serve for your reoffending, you will have to serve immediately this sentence of two (2) years imprisonment. Needless to say, whether that happens is entirely within your power and control.
13. I trust that you will take this opportunity over the next two (2) years, to heal your relationship with your wife and to rekindle the love that appears to have deserted your marriage.
14. I also order you to perform a custom reconciliation ceremony to your wife and children within **21 days** and I direct that it be witnessed by your village chief and the resident police officer who is to provide a written report of the ceremony to the Correctional Services within 14 days after the ceremony.
15. You are also required in terms of **Section 58G** of the **Penal Code** to perform **100 hours of community work** under the supervision of Mr. **Jiane James** and/or the officer in charge of the Police Station at Anelcauhat.
16. Finally I urge you and your wife to undertake some form of spiritual and marriage counselling with your local Presbyterian minister.
17. Your sentence is deemed to have commenced from **12 December 2011**.
18. If you do not agree with your sentence you have 14 days to appeal to the Court of Appeal.

**DATED at Anelcauhat, Aneityum, this 12<sup>th</sup> day of April, 2013.**

**BY THE COURT**

  
**D. V. FATIAKI**  
Judge.

