

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

Criminal Case No. 08 of 2014

PUBLIC PROSECUTOR

V

SIMON BOE

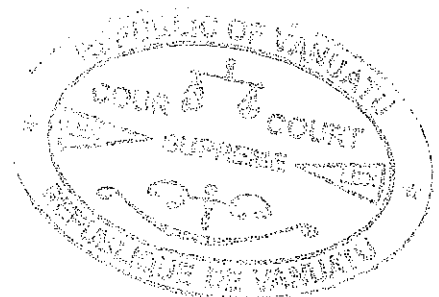
Coram: Justice Mary Sey

Counsel: Denson Damien Boe for the Public Prosecutor
Brian Livo for the Defendant

Date: 5 May 2014

SENTENCE

1. Simon Boe, you are before this Court for sentencing having been convicted on your guilty plea to a single count of Intentional Assault Causing Temporary Injury contrary to section 107(b) of the Penal Code [Cap 135].
2. This offence carries a maximum penalty of imprisonment for 1 year.
3. The offending occurred on Friday 8th November 2013 around 06:00hrs when you assaulted the victim Noris Garae on her head with two bricks. She was badly injured on her head and she was disoriented and confused when seen in the ER at the Vila Central Hospital.



4. Medical examiner Doctor Ricky Mera carried out the examination and the report is as follows:

"The victim said to be disoriented and confused when seen in ER, she was bleeding profusely from a laceration on her face and from her nose, a hematoma was noted around her left eye, there was periorbital swelling involving both eye, but more on the left the pupils were sluggishly reactive to light bleeding was noted coming from her left ear, her nose was also noted to be deformed.

Her X- ray showed a depressed fracture of her right frontal bone. Slowly she regained consciousness but on the 14/11/13 she was bleeding profusely from her nose resulting in a drop in her Hemoglobin from 10g/dl to 5.5g/dl in which blood transfusion was done to correct her epistaxis induced Anemia. Although her condition has been improved she will still be kept for observation as she had a severe head injury for the assault."

5. Simon Boe, you acknowledge the seriousness of this offence and you have shown remorse as can be seen in the Pre-Sentence Report submitted by the probation officer. You are a first time offender and you have entered a guilty plea at the earliest opportunity. Moreover, you cooperated well with the Police during the time of arrest and investigation.
6. In assessing your appropriate punishment I have considered matters raised in your Pre-Sentence Report, and submissions raised by both the Prosecution and Defence counsel. I note that you are 48 years of age and you are gainfully employed as an Engineer in the Department of Meteorological Service. You are an ordinary member of the community headed by Chief Isaac Vira at Independence Park area and you and the victim have been living as husband and wife for 9 years but have no children.
7. Your counsel has referred me to the case of **Public Prosecutor v Alvea** [2013] VUSC 82 where the defendant was charged with a similar offence of intentional assault causing temporary injury. He pleaded guilty and a sentence of 10 months imprisonment suspended for 3 years was imposed on him and he was ordered to perform a custom reconciliation ceremony to his family under the supervision of a probation officer.



8. Simon Boe, in light of the case authority as aforesaid, you are hereby sentenced to 9 months imprisonment which I would suspend for a period of 2 years under section 57 of the Penal Code Act [CAP] 135. This means that if you re-offend during the 2 years suspension period and are convicted, then you may be required to serve this 9 months imprisonment in addition to any sentence you may receive for the new conviction.
9. You are also hereby ordered to perform a custom reconciliation ceremony to the victim and her family as a sign of peace and forgiveness.
10. You have 14 days to appeal this sentence if you do not agree with it.

DATED at Port Vila, this 5th day of May 2014.

BY THE COURT


M.M. SEY

Judge

