

**PUBLIC PROSECUTOR**

**V**

**ANDREW VANO**

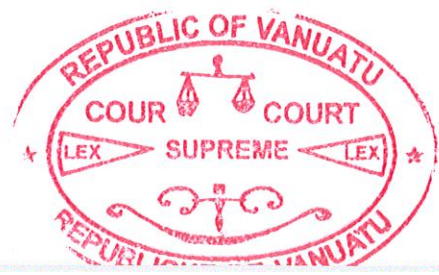
**Coram: Justice Mary Sey**

Counsel: Damien Boe for the Public Prosecutor  
PSO for the Defendant

## **SENTENCE**

1. **Andrew Vano**, you are for sentence today having pleaded guilty to one count of Threats to Kill contrary to section 115 of the Penal Code Act [Cap 135]. The charge is a very serious one as Parliament has recognized and it carries a maximum penalty of 15 years imprisonment.
2. The brief facts of the offending are provided by the prosecution and no dispute is taken by you and your defence counsel with the summary of the facts as presented by the prosecutor. They are as follows:

On 4<sup>th</sup> September 2014, you trespassed onto the plantation of Robert Monvoisin at Shark Bay, Teouma area and you were shooting "flying foxes" when the complainant, Mr. Oken Kawila, approached you and asked you where you were from. You responded that you were from Rantapoa area. The complainant told you that you were trespassing on a private plantation and he asked you to stop and to



hand over the bullets. You refused and you proceeded to point the rifle at the complainant's face and you said "yu wantem se bae mi sutum yu." The complainant was frightened and he tried to hide behind the trees. You reversed with the rifle still pointing at the complainant and then you ran away from the plantation.

3. I have received a detailed pre-sentence report which shows that you are 58 years old and you are married with five children. The eldest is 21 and is still studying and the youngest is 5 years old and is disabled. Your family resides at Teouma Dark Bush area and you are an ordinary member of the community and a member of the Presbyterian Church as well.
4. The report also states that you are really sorry for your actions and that you knew you were wrong in trespassing onto the plantation in the first place but that you had no intention to kill or shoot Mr. Oken Kawila. You stated to the probation officer that you pointed the rifle at Mr. Oken because you are an elderly man and you were afraid as you saw him holding a bush knife and you also stated that he was accompanied by some youths who were armed with sticks.
5. Be that as it may, there is no question that your conduct is totally unacceptable and it must be denounced by this Court. You must understand that the usual sentence for such conduct must be a custodial sentence. It seems to me that the appropriate starting point in this case is a sentence of 12 months imprisonment.
6. In mitigation, you are a first time offender and you have no previous convictions. You are remorseful for what you did and you pleaded guilty at the first available opportunity given to you by the Court. I give you full one third credit for your early guilty plea and I hereby deduct 4 months from the sentence. I also note that a kastom ceremony took place at Olen area on 7 February 2015 during which you presented gifts of two local chickens, one kava stem, one mat and 2000vt cash to the victim in the presence of the victim's chief and your own chief. I have taken this





kastom ceremony into consideration and your sentence is further reduced by 2 months leaving an end sentence of 6 months imprisonment.

7. I have also considered relevant authorities referred to me and I accept the submission of both counsel that this is an appropriate case where the sentence can properly be suspended.
8. **Andrew Vano**, I will therefore suspend the whole of your sentence of imprisonment for a period of 1 year. What this sentence means is that you will not have to go to prison today, but if you commit another offence, and are convicted, then you will have to serve this sentence of 6 months imprisonment in addition to any sentence that may be imposed on you for your re-offending.
9. You have 14 days to appeal against this sentence if you do not agree with it.

Dated at Port Vila this 5<sup>th</sup> day of August, 2015.

BY THE COURT

  
M.M. SEY  
Judge

