

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

CRIMINAL CASE No. 196 OF 2014

PUBLIC PROSECUTOR –v- CHARLES HAPIHABAT

Conference: 28th May 2015
Before: Chetwynd J
Counsel: Mr Boe for Public Prosecutor
Mr Molbaleh for Defendant

SENTENCE

1. Charles Hapihabat you have pleaded guilty to a charge of intentional assault on you partner contrary to section 107(b) of the Penal Code. The maximum sentence for an offence of assault where there has been physical damage or harm but where that damage or harm is not permanent is 1 year. You are fortunate that in this jurisdiction mental damage is not yet part of such an offence because I am sure the mental trauma suffered by your partner will last her lifetime. This was a sustained, vicious assault where a weapon was used. You should be grateful you are not facing more serious sentencing consequences.

2. I have read and listened to all that is said on your behalf. I feel very much as the court did in the Thomas case ¹

“...I think that it impossible to do justice in this situation. The decision I have made is made because if I were to send the accused to prison now, the victims of his crime would be the ones who suffered again.”

Two days earlier in another 1994 case ² the court also said;-

“Women should not be required to live in fear of being beaten every time they do something their husband or partner finds disagreeable.”

3. In the circumstances and even taking into account your guilty plea, the time you have already spent in prison on remand and your previous good character I am of the view there are such aggravating factors apparent in the facts of this offence (the sustained and prolonged nature of the assault, the brutality of it and the use of a potentially lethal weapon) that a custodial sentence of 9 months is appropriate. It will

¹ Public Prosecutor v. Andre Thomas [1994] VUSC 23 (4 November 1994)

² Public Prosecutor v. Jean Paul Simeon [1994] VUSC 15 (2 November 1994)

also I hope, emphasise the message that domestic violence cannot be excused and will not be tolerated. If domestic violence does occur the victims, usually women it is sad to say, should be able to rely on the courts to bring the full force of the law to bear on the perpetrators.

4. Taking into account the sentiment expressed in Thomas which I referred to earlier, the circumstances of this case allow me to suspend the sentence and it will be suspended for a period of three years.

5. You have the right to appeal against the sentence I have just imposed. You should take advice before you do so and you must lodge the appeal within 14 days.

**DATED at Port Vila this 28th Day of May 2015.
BY THE COURT**


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DAVID CHETWYND
Judge

