

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

Criminal Case No. 96 of 2015

PUBLIC PROSECUTOR
v.
PAUL TASSO

Coram: Justice D. V. Fatiaki
Counsel: Mr. D. Boe for the State
Mr. F. Tasso for the Defendant
Date of Sentence: 11 March 2016.

SENTENCE

1. Paul Tasso, you have been convicted of an offence of Threats to Kill contrary to Section 115 of the Penal Code. It is an offence which carries a maximum penalty of 15 years imprisonment. The particulars of the charge against you reads as follows:

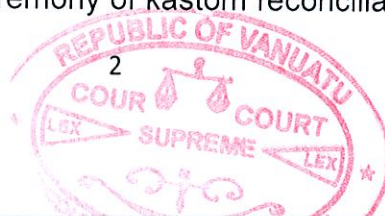
"Paul Tasso, samtaem long numba 14th March 2015 long Buruba, yu bin thretenem blo killem dead Marki Mael olsem yu talem long Jenny Savo mo Aki Mansik se 'sapos yu finem Marki Mael bae yu katkatem hem mo fulumap hem inside long bag mo sarem body blong hem lo community blong oli kakai' wei long taem ia hemi fraet tumas long action blong yu".

2. Two (2) things are clear from the charge, the first, is that you made a serious threat to the life of Marki Mael. The second aspect is that the threat was not made directly to Marki Mael but to Jenny Savo and Aki Mansik. Jenny Savo is the complainant's mother in law so you clearly intended that your threat would be relayed to the complainant.
3. This second aspect is important because if Jenny Savo had chosen to, the threat could have ended with her if she decided not to relay the threat to Marki Mael. If she had decided to ignore your threat and not passed it on then Marki Mael would not have known about it and it is unlikely that the matter would have been reported to the police. Unfortunately Jenny Savo decided to tell her son in law about the threat as you had intended.
4. Having said that the law still prohibits the making of an indirect threat to kill a person. In this case you made that indirect threat to kill Marki Mael through his



mother in law Jenny Savo and Aki Mansik clearly intending for them to take it seriously and relay your threat to Marki Mael.

5. Although you denied uttering that threat when you were questioned by the police, you have admitted the charge in court accepting responsibility and showing some remorse.
6. To the probation officer you say you uttered the threat in anger and, on reflection, you regret it and are remorseful. You also told Aki Mansik that your anger was because they were building and working on your land without your permission and you discovered your banana trees had been cut down.
7. Paul Tasso I accept that you were angry when you uttered the threats, I also recognise that you did not attempt in anyway, to carry out your rather exaggerated threat which would have had very serious and fatal consequences.
8. You are 37 years of age with a class 6 education. You are the sole provider for your family and are a trusted leader in your community. You are an assistant to your chief and you organise village meetings on his behalf as well as being an advisor to him. You are a first-time offender.
9. Paul Tasso, I don't I need to remind you that leaders must lead by example. This means being able to control your anger and not use threats to kill members of the community. Leadership requires patience; self-control and thinking carefully before you speak and not taking the law into your own hands. That is the function and duty of the police and the courts. You clearly lost control in this case.
10. Although the law provides a maximum penalty of 15 years imprisonment for this offence, in my view, the penalty is excessive and quite inconsistent with the maximum penalties for much more serious offences such as an intentional assault causing actual injuries and even death under Section 107 of the Penal Code which carries a lesser maximum penalty of 10 years imprisonment.
11. In other words and for example, if a person makes a threat to kill someone that person is liable to imprisonment for up to 15 years, but, if the same person who uttered the threat carries it out and causes the death of the person threatened, he would only face a maximum sentence of 10 years. That cannot be either right or fair and the law should be changed.
12. Be that as it may for your offence Paul Tasso I adopt a starting point of 36 months imprisonment. For mitigating factors including your past good record and the performance of a ceremony of kastom reconciliation to the complainant



and his family involving the presentation of a pig, a kava root, 3 mats and VT5,000 I deduct 12 months and I deduct a further 12 months for your guilty plea leaving an end sentence of $(36 - 24) = 12$ months imprisonment.

13. In exercise of the court's power under Section 57 of the Penal Code I order the end sentence of 12 months imprisonment be suspended for 2 years. This means that you will not go to jail today but if you commit another offence at any time during the next 2 years then you will be sent to prison to serve this 12 months imprisonment in addition to any other sentence you may receive for your re-offending.
14. Paul Tasso, this court is extending to you this chance and opportunity to remain within your community and become a better leader. Whether you accept this chance is entirely in your hands. But if you re-offend then you can expect no leniency from this court.
15. In addition to the suspended prison sentence I order that you perform 200 hours of community work under the supervision of Chief Kami Tumboamanunu and as directed by the probation officer.
16. You have 14 days to appeal against this sentence if you do not agree with it.

DATED at Rovo Bay, Epi, this 11th day of March, 2016.

BY THE COURT



D. V. FATIAKI
JUDGE.

