

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

**Criminal
Case No. 14/197 SC/CRML**

PUBLIC PROSECUTOR

V

CHARLEY YUNDEN

Date of Sentence: Friday 19th August 2016

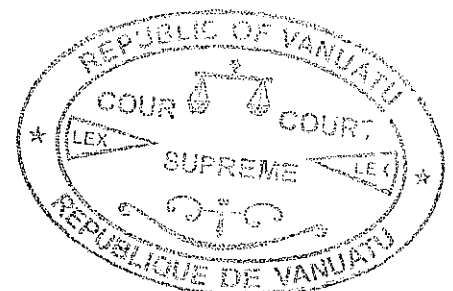
Before: Justice Chetwynd

***Counsel: Mr Simcha Blessing for the Public Prosecutor
Ms Kylie Bakeo for the Defendant***

SENTENCE

1. Charley Yunden has been found guilty of the intentional killing Lily Kom. This was found not to be a premeditated killing. In accordance with section 106(a) of the Penal Code [Cap 135] the maximum sentence is 20 years.

2. There is no evidence at all that drugs or alcohol were involved or in any way implicated in the death of Lily. In fact it is not entirely clear what sparked the attack. The Defendant speaks of one moment eating with Lily and the next being cross and losing control. It is likely the Defendant was upset with Lily because of her alleged infidelity. There is some evidence about phone calls on her mobile from other men which could have led to an argument. There is a suggestion there had been arguments in the past. Even if it is the case that Lily was unfaithful that can be no excuse for her death. Violence of any kind against women cannot be condoned. Violence leading the death of someone, even if the death was the result of an un-premeditated act, must be punished and the only appropriate punishment is immediate imprisonment.



3. An offence of this nature where there was a sudden loss of control leading to blows being struck must attract a starting point of 10 years. There are no particular aggravating features other than the offence itself.

4. The Defendant is 30 years old. According to the pre-sentence report provided by the Probation Officer he has led a blameless life. The leaders in his community consider Mr Yunden to be a quiet well behaved member of society. His family were not known to be anything other than quiet in character and there is absolutely no history of fighting or quarrelling, or indeed any conflict with others in the community. He has freely contributed his time and skills to the community.

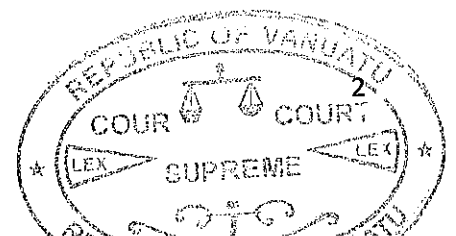
5. I have also read of the serious attempts that have been made to reconcile with Lily's family. Substantial sums of money and other gifts have been handed over. Unfortunately some members of her family seem bent on making money from Lily's sad death rather than reconciling with the Defendant and his family. This attitude of some members of Lily's family should not, and will not, be held against the Defendant.

6. Clearly the Defendant should be given credit for his good character and his attempts and contributions to the custom reconciliation. Given what has been said about him I am of the opinion Mr Yunden should be given a substantial discount in this regard. His sentence should be reduced by 3 years to take those matters into account.

7. The Defendant is not entitled to any credit for a guilty plea. He was convicted following a trial.

8. The Defendant is entitled to credit for the time he has spent in prison pending his trial and conviction. He has been held for, near as makes no difference, 22 months. This equates to a served sentence of 3 years and 8 months. If this period is deducted from his sentence of 7 years he will have 3 years and 4 months left to serve.

9. I have read of Mr Yunden's apparent lack of remorse. I believe that what is described as a lack of remorse is in fact a lack of ability to come to terms with what he has done. In the circumstances I will be sending a copy of this decision to the Director of Correctional Services and I ask if there is any possibility of obtaining some form of counselling for Mr Yunden. He clearly needs professional help in learning to accept what he did.

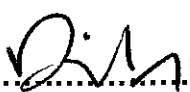


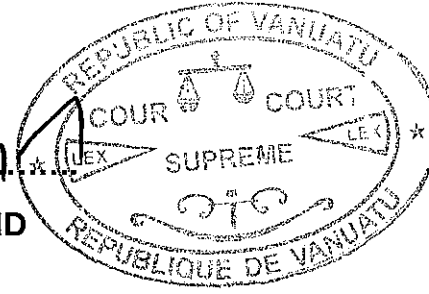
10. Due to the seriousness of the offence the Defendant's sentence cannot be suspended. The Defendant will go to prison for a period of 3 years and 4 months effective from today.

11. If the Defendant is unhappy with the sentence handed down today then he has 14 days in which to appeal to the Court of Appeal.

DATED at Port Vila this 19th day of August, 2016.

BY THE COURT


.....
D. CHETWYND
Judge



The seal is circular with the text "REPUBLIC OF VANUATU" at the top and "REPUBLIQUE DE VANUATU" at the bottom. In the center, it says "COUR SUPREME" and "COURT SUPREME" with a scale of justice above the word "SUPREME". There are also the words "JEX" and "LEX" on either side of "SUPREME".