

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

Criminal
Case No. 17/1935 SC/CRML

PUBLIC PROSECUTOR

V

FELIX BEAU

SAM BEAU

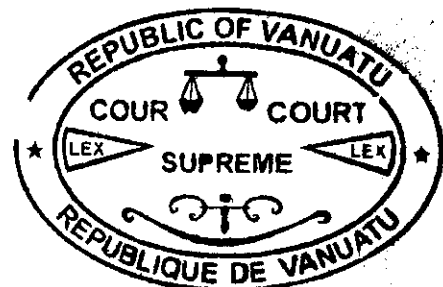
Date of Sentence: 7th day of December, 2017 at 2:00 PM

Before: Justice David Chetwynd

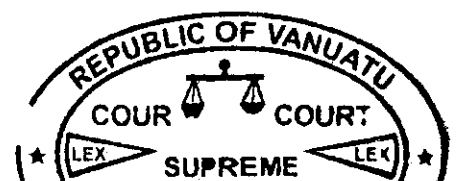
Counsel: Ms Betina Ngwele for Public Prosecutor
Ms Kylie Bakeo for Defendants

SENTENCE

1. This is a tragic case. The 2 defendants Sam and Felix Beau are brothers. They have entered pleas of guilty to charges of intentional assault causing permanent injury (Felix Beau) and intentional assault causing temporary injury (Sam Beau). The tragedy arises because following the assaults they carried out and whilst they were on remand in Port Vila, their father was assaulted and killed by relatives of the victim in this case. Those relatives now face charges of murder.
2. The facts in this case are that the two brothers were carrying roofing iron when the victim came across them. There was an argument, the victim insisting that the two brothers leave the roofing iron alone as it was community property. An argument ensued. Felix assaulted the victim with a knife, fortunately the handle not the blade Sam then used a length of wood to hit the victim around the back and the head.
3. The victim sustained injuries to his left elbow and forearm, cuts to his eyebrow and fractures to the bones in his hand.



4. The defendants were arrested some days later and were remanded in custody for a period. When they appeared in Court on 4th December they both entered pleas of guilty. The brief facts as outlined above were accepted by both defendants.
5. Felix Beau faced the most serious of the charges. The offences occurred on 17th June 2017 and therefore the maximum penalty is 10 years imprisonment. The assault was with a bladed weapon although as previously noted the assault was with the handle and not the blade. The injuries are not said to be life changing let alone life threatening. The starting point for this offending is 3 years imprisonment.
6. The defendant was remorseful about his actions but there has been no reconciliation with the victim's family. The defendant also must face the fact that his offending has led to the death of his father. He has no previous convictions. He is entitled to some reduction of his sentence by 9 months. His final sentence is 27 months.
7. Felix, once agreed facts were prepared, entered a guilty plea. Whilst this may not have been at the very earliest opportunity he is entitled to a deduction of 1/3. The reasons for his not entering a plea at the very first opportunity were because there was some dispute about the original facts. I note that their relative was charged along with Felix and Sam but those charges were nolle'd. In short there were good reasons why a plea could not be entered at the very first opportunity and the defendant should not be penalized. The sentence in respect of Felix shall be reduced by 9 months and the trial sentence is 18 months.
8. Turning to Sam Beau, he faces a lesser charge with a maximum penalty of 5 years. He assaulted the victim with a piece of wood. The injuries he is said to have caused were not permanent. The sentence for him will start at two years.
9. He too expresses remorse and feels the grief of his actions having led to his father's death. His sentence like Felix's will be reduced by 9 months. However Sam is not of previous good character. It is said in his pre-sentence report that he has a previous conviction and has been on parole. I do not

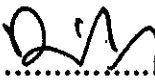


know what the previous offence was or whether he is still on parole. If he is the Director of Correctional Services will have to report this conviction to the Chairman of the Community Parole Board so the Board can consider recall.

10. Like Felix, Sam Beau has entered a plea of guilty when the facts were settled. He is entitled to a 1/3 reduction in the sentence. That reduces his trial sentence to 10 months.
11. I have considered carefully whether there two defendants should have their sentences suspended. Both want to try and reconcile with the victim's family and given that there is now a murder trial pending involving that family it could be unhelpful to send the two brothers to prison. I have concerns about Sam because of his previous conviction but not knowing what it was for it is difficult to say his sentence for this offence should not be suspended. Both Felix Beau and Am Beau will have their sentences suspended, Felix for 2 years and Sam for 1 year. Both will be subject to supervision for 12 months.
12. I explained the effect of suspension to the Defendants in Court. They know that if they commit further offences during the periods of suspension they will go to prison.
13. They also know that they are entitled to appeal their sentences. Time to appeal will start to run once they receive copies of these written reasons through their counsel. They will then have 14 days to lodge any appeal.

DATED at Port Vila this 13th day of December, 2017.

BY THE COURT


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David Chetwyn
Judge

