

PUBLIC PROSECUTOR VS- PAUL GEORGE

Coram: Mr. Justice Oliver A. Saksak

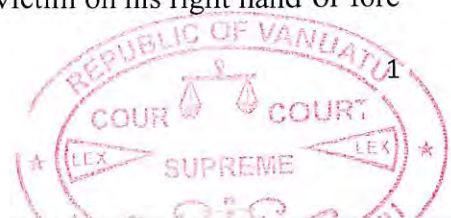
Counsel: Ken Massing for Public Prosecutor
Junior Garae for Defendant

Date of Plea: 19th April 2017

Date of Sentence: 19th May 2017

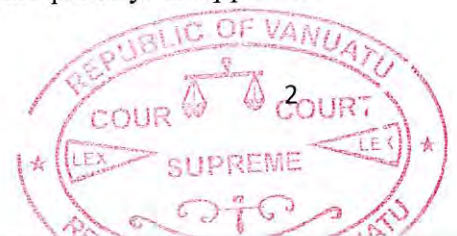
SENTENCE

1. Paul George you are for sentence today for having pleaded guilty on 19th April 2017 to the charge of unintentional harm contrary to section 108(b) as an alternative charge (Count 2), and to one charge of possessing a firearm without Licence contrary to section 3(a) of the Firearms Act [CAP.198] (Count 4).
2. You were acquitted of the charge of attempted homicide contrary to sections 28 and 106 (1) (b) of the Penal Code Act [CAP 135] (Count 1) after a trial hearing was held and the Court ruled there no prima facie case made out by the prosecution. The ruling of the Court issued on 19th April 2017 records that position.
3. You were also charged with one charge of possession of firearms with intent to injure (count 3) contrary to section 26 of the Firearms Act however the prosecution informed the Court also on 19th April that they did not intend to proceed with the charge against you. The Court therefore entered nolle prosequi under section 29 of the Criminal Procedure Code Act [CAP.136].
4. The charge of unintentional harm carries a maximum penalty of 2 years imprisonment. And the penalty for possessing a firearm without a licence is a fine not exceeding VT 20.000 or imprisonment for not more than 6 months or to both.
5. The facts of your offendings are quiet simple. On 8th September 2016 you carried a . 22 rifle which you have accepted you did not have a licence to carry or possess. In the afternoon of that day you were in Viuvu Plantation when you saw the victim Jacob Karae in the Plantations as a trespasser and fired a shot at him as he was running away in shock. Unfortunately that shot hit the victim on his right hand or fore



arm. Although there was injury caused there were no neurological deficit, no bone fracture, and no vascular injury according to the medical report.

6. You were obviously angry because the victim was trespassing on the property despite clear warnings placed at the entrance of the property. However, there was no need of you to have shot directly at the victim when he was running away. You could have simply fired into the air to frighten him, but you fired in the direction he was running. Luckily the shot did not hit the victim on a critical part of his body to cause his death.
7. Taking all these into account I consider the starting point for you in respect of the 108(b) charge to be at the highest end of the scale. That means the maximum penalty of 2 years imprisonment must be imposed. This is in order to mark the seriousness of your offending, the public condemnation of your actions and to deter you and others who are likely to do what you did.
8. You are therefore sentenced to imprisonment for a period of 2 years, however as a result of your early guilty plea in relation to this charge, the end sentence shall be 1 year and 4 months imprisonment.
9. I have read your personal history and about your character in your pre-sentence report dated 24th April 2017. I have read the reasons for your actions on 8th September 2016 and the fact that you have accepted you acted inappropriately or disproportionately to the victim and have regretted your actions. You have no previous criminal record and you are contributing to the family and the community as a constructor or builder. It appears to me you cooperated well with the police during investigations. Your report also indicates you are prepared to take responsibility by making peace and reconciliation to the victim by raising some VT500.000 to pay to the victim only to be turned down by the victim's father. However, that does not stop you to proceed and fulfil your part.
10. For all these factors the Court Orders the suspension of your end sentence of 1 year and 4 months imprisonment. The suspension is to be for a period of 2 years from the date of this sentence and it is made under section 57 of the Penal Code Act CAP 135. This means that within 2 years from today, you must not commit this offence again or commit any other criminal offence for which you would be charged and convicted. If you do, you will go to prison straight away to serve your 1 year and 4 months imprisonment.
11. That leaves the penalty for the charge of possession of a firearm without licence. As this is a separate legislation, it is necessary to impose a separate penalty. It appears



from your pre-sentence report that you had carried this rifle on several occasions in the plantations. I therefore sentence you to pay a fine of VT 10.000.

12. You are ordered to pay this fine to the Court Registry within a period of 14 days from today (by 1st June 2017).
13. At the date of writing this Sentence the Court had not received any submissions by the Prosecution or the defence counsel as ordered on 19th April. Their submissions are therefore dispensed with.
14. That is the Sentence of the Court. You have a right of appeal against this Sentence if your do not agree with it but you must do so within 14 days from today's date.

DATED at Luganville this 19th day of May 2017

BY THE COURT



OLIVER A. SAKSAK

Judge

