

PUBLIC PROSECUTOR

- v -

STEVEN MANGA JOHNSON

Coram: Chief Justice Lunabek

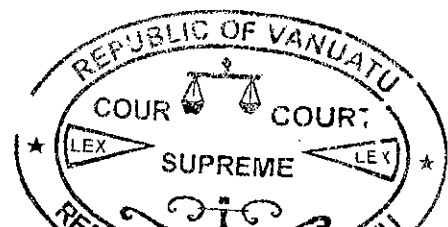
Counsel: Mr. Lenry Young for Public Prosecutor
Ms. Linda Bakokoto for the Defendant

Date of Sentence: 3rd August 2018

SENTENCE

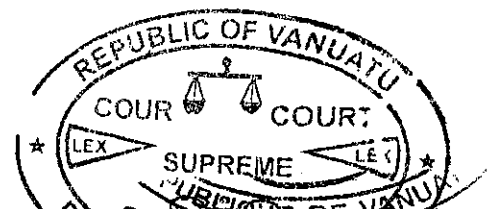
1. Steven Manga Johnson, you, come for sentence today upon entering guilty plea on one count of threats to kill a person, contrary to section 115 of Penal Code [CAP 135]. A Nolli Prosequi has been entered on the offence charged initially against you in count 2 of the information.
2. On 4 July 2018, you accepted the prosecution summary of facts before you entered guilty plea on the offence of threats to kill a person.
3. The summary of facts is this. The complainant (Bob Naulen) made a report against you on allegation of threats to kill. He said you are his brother. He alleged that you indirectly threatened to kill him when you told Ruth Taumia that you would cut his neck with a knife.

He said you told Ruth Taumia to this effect "*today bai yufala I cry from Bob, bai mi katterem aot neck blo hem*" ("today you will cry for Bob, I will cut off his neck"). He alleged that you were having sex with his wife and as a result, his wife got pregnant. Chiefs had a meeting about this and they ordered you to pay a fine but you have not paid yet. Due to your failure in paying fine, the chiefs made an order to chase you out from their community at Etas, Efate. He



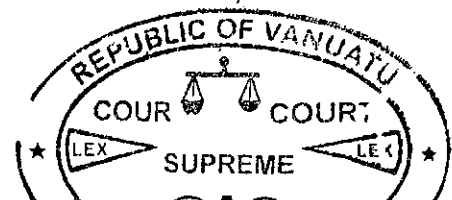
said you were armed with a big knife whilst walking around. People are scared of your conduct.

4. Ruth Taumia confirmed that on 7th May 2018 she was at home at Etas when you came to their house with a bush knife, banging the iron roof of their house with that knife and damaging the basin and bucket. You then said that to her *"yu luk knife ia mi mas cuttem out neck blo Naulen"* ("you see this knife I must cut off the neck of Naulen"). You were holding on to the knife when saying those words to her.
5. Kasu Kinag (Ruth Tuamia's husband) confirmed that he was in the yard when he heard the bang on the iron roof. He run to his wife and the children. He saw them sitting down and were terrified. His wife then told him about you walking around with the knife. He went out and met you. You said to him *"bae yu talem long ol chief, bai yufala I mas putum mi long prison nomo....bai yumi go long Tanna yet, taem yumi walkbout, yumi walkbout wetem knife"* (you must tell the chief, you guys must put me in prison, we will still be going to Tanna, when we walk we walk with knife).
6. On 4 July 2018, the Court ordered that the Probation office would assist in your sentencing with a pre-sentence report. The probation office filed a Memorandum to the Court dated 26 July 2018 to the effect that there is no pre-sentence report made as you failed to attend to the Probation Office and that despite querying about your address or detailed contacts through your lawyer, nothing happened.
7. I proceed with the sentence on the basis that your defence lawyer will assist me further in her submission on mitigation and other sort of information personal to you that you provide to her.
8. I have also peruse and consider the prosecution submissions and case authorities on the nature and seriousness of the offending including aggravating factors, the suggested appropriate starting point and the end sentence.
9. I further read and consider your lawyer's submissions and mitigating factors.



10. The offence of threats to kill a person carries a maximum penalty of 15 years imprisonment.
11. The maximum penalty imposed by law on this offence is substantial. It reflects the intention of Parliament that it is a serious offence and the courts must deal with it seriously on its own facts.
12. The guideline sentence is provided in the case of **Public Prosecutor –v- Walker [2007] VUSC 63** that was confirmed by the Court of Appeal in **Walker –v- Public Prosecutor [2007] VUCA 12**. The Court, there, stated:


“Cases of this nature must always warrant imprisonment sentence to reflect the seriousness of the offence. For offence of threats to kill, a person by a defendant with the presence of a weapon and the use of the weapon is on the higher scale of aggravation and seriousness. A suspended sentence of imprisonment must only be granted if the circumstance of the case is justified.”
13. The prosecution and the defence lawyer refer to this case in their respective submissions including other Supreme Court cases.
14. In the present case, the nature and seriousness of the offending are aggravated by the following factors:-
 - Violence used through menacing words towards a person; and
 - In the presence of others and in particular the children and their mother; and
 - Causing fear to the complainant, his children and wife.
 - Presence of deadly weapon (bush knife) and using the knife to cause threats against the life of a person.
15. The starting point sentence is 4 years imprisonment based on the above aggravating factors.
16. In mitigation, you are a first time offender; your lawyer says you are remorseful although there is no material evidence to that effect. Nevertheless, I will take



some consideration on it. You did not perform any custom reconciliation although you wanted to preform one but you are afraid to breach your bail conditions.

17. I treat this as no custom reconciliation performed but intended to do one if situation permits. I allow 6 months for this. Your sentence is then reduced to 42 months. You plead guilty at the earliest opportunity given to you. You are entitled to 1/3 reduction. Your sentence is further reduced to 14 months.
18. I consider the circumstance of your offending, I refuse to suspend, as the circumstance does not justify a suspension.
19. You are ordered to serve 14 months imprisonment with immediate effect.
20. You have 14 days to appeal this sentence if you are not satisfied with it.

**Dated at Port Vila, this 3rd August 2018.
By the Court**



**Vincent Lunabek
Chief Justice**

