

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

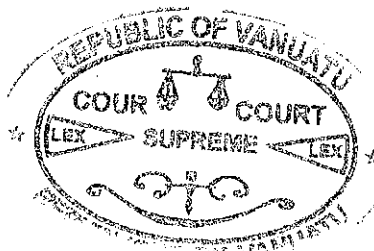
Criminal
Case No. 18/1356 SC/CRML

PUBLIC PROSECUTOR
v.
MATTHEW TASEREI

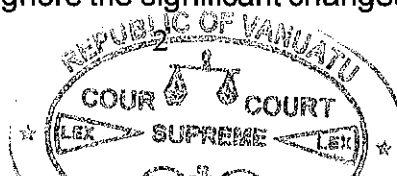
Coram: Justice D. V. Fatiaki
Counsel: Mr S. Blessings for the State
Ms L. Bakokoto for the Defendant
Date of Sentence: 16 August 2018

SENTENCE

1. On 5 June 2018, the defendant was arraigned on an Information that charged him with Penal Code offences of Extortion; Threats to Kill; Criminal Trespass; Malicious Damage and Unlawful Entering Dwelling House. The defendant pleaded guilty to all charges and admitted brief facts outlined by the prosecutor. Although the offences are charged as having occurred in "November" the admitted facts confirms they occurred a month later in "December".
2. The brief facts of the case are that the defendant and his defacto partner became estranged and a police report was lodged against the defendant by his partner and her mother. On 14 December 2016 the defendant who was drunk at the time, approached the complainants and forcefully attempted to compel them to withdraw the police report they had earlier made against him (Extortion). In the altercation that ensued, the defendant loudly threatened to slit their throats and kill them (Threat to Kill) and later, he threw stones at the mother's house breaking several window glass louvres (Malicious Damage).
3. Two days later on 16 December 2016, the defendant who was again drunk, went to the complainant's uncle's house uninvited, where his defacto was staying. He entered the compound and threw stones at the house in a vain attempt to get his defacto partner and child to return to him (Criminal Trespass). Finally, on 21 December 2016, the defendant again entered the uncle's house in the early morning hours and assaulted his defacto partner in her bedroom (Unlawful Entering Dwelling House).



4. It is clear from the facts that the offences occurred on 3 separate days in close proximity and form more or less, a part of a series of offences of similar character involving the same premises and complainant(s).
5. Upon his conviction a pre-sentence report was ordered as well as sentencing submissions. I am grateful for the assistance provided and I extract the following personal details from the pre-sentence report:
 - The defendant is 27 years of age from Emua Village, Efate and lives in a defacto relationship with his fiancé (not the complainant);
 - He completed year 8 in school and maintains a subsistence way of life;
 - The defendant and the complainant were in a long term relationship at the time of the incident and they had a daughter. The complainant had also had 2 miscarriages;
 - Since the incident the defendant and the complainant have moved on with their lives and both now have new partners including the complainant who is currently pregnant;
 - The defendant and his family performed a custom reconciliation ceremony in the presence of the Village Council of Chiefs where VT16,000 cash and 3 mats were distributed and accepted by the complainant's family;
 - It is reported by the probation officer that the defendant "... *regretted his actions*" and has "... *accepted the blame and ready to face the consequences*";
 - The defendant is a first time offender and pleaded guilty at the earliest opportunity. He was 24 years of age at the time of the incident.
6. In light of the foregoing defence counsel submits that the appropriate punishment should be an imprisonment sentence less than 2 years and suspended.
7. Prosecuting counsel for his part, points to the nature of the offence and aggravating factors as justifying a starting sentence of 5 years imprisonment for the offences of Extortion; Threat to Kill and Unlawful Entry into Dwelling House. Counsel accepts that a small allowance may be given for the delay in finalising the case and a full 1/3 reduction for the defendant's guilty pleas. However given the persistent and indiscriminate nature of the offending counsel submits that an "*immediate custodial sentence is the only appropriate penalty*".
8. In assessing what is the appropriate sentence in this case I am mindful of the numerous charges against the defendant and the aggravating factors as well as the need for deterrence and the protection of women from domestic violence. But having said that, I cannot ignore the significant changes that have occurred since

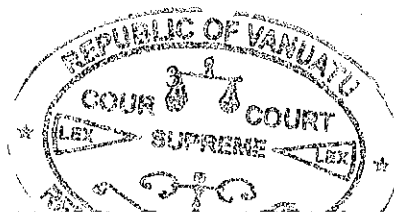


the commission of the offences almost 2 years ago, in the defendant and the complainant's personal relationship which is, perhaps, reflected in the absence of any repetition of offending by the defendant.

9. In similar vein, nothing is known about the original police complaint that was laid against the defendant and which forms the backdrop to the present charges which may be considered as merely consequential – what was the “complaint and what has happened to it? was it withdrawn? or did the police decide not to pursue it? – unfortunately, all these questions remain unanswered and this Court is left to sentence for “secondary” events without that potentially relevant and important information.
10. Having said that, I accept the description of the prosecutor as to the seriousness of the offence and the aggravating factors where he writes:

“The offending involved an attempt on the part of the offender to pervert the course of a criminal proceeding against him. He approached the mother of the victim and victim to compel them to withdraw a criminal complainant that they have lodged against him. He threatened them with death. Trespassed into their property and unlawfully entered the dwelling house to force them to frustrate the case they lodged against him. This shows the offender's preparedness to break the law. His actions further point to a flaw in his character.”

11. This was repetitive, indiscriminate, and persistent offending by the defendant against weaker defenceless victims. It caused them much fear and trauma. The indiscriminate stoning of the house where the complainant had sought refuge is a further aggravating factor. It is sheer luck that no one was injured in the stoning which occurred at night.
12. In all the circumstances for the lead offences of Extortion, Threats to Kill and Unlawful Entry of Dwelling House I adopt a concurrent uniform starting sentence of 4 years imprisonment. I deduct 1 year for mitigating factors including the defendant's good past record and the performance of a custom reconciliation ceremony as well as the delay in finalising the case. This leaves a sentence of 3 years imprisonment which is further reduced by 1/3 to reflect the defendant's guilty pleas at the earliest opportunity giving an end sentence of 2 years imprisonment. For the lesser remaining offences of Criminal Trespass and Malicious Damage to Property I impose concurrent terms of 6 months imprisonment.
13. I turn finally to consider the question of suspension and whilst the need for punishment and general deterrence are important considerations in sentencing of violent offenders in a domestic situation, I am satisfied given the fact that both the defendant and the complainant are now happily engaged to different partners, that there is little likelihood of repetition of the offences. In my view, the existing status quo should not be disturbed as the parties move on with their



separate lives. Additionally, the entry of convictions against the defendant is a real punishment in itself.

14. Accordingly the defendant's end sentence of 2 years imprisonment is suspended for 3 years. The defendant is warned that he must stay out of trouble for the next 3 years and if he is convicted of any other offence he will be required to immediately serve this sentence of 2 years imprisonment in addition to any other sentence he may receive for his re-offending.
15. In addition, the defendant is sentenced to 12 months Supervision and ordered as a special condition that he not consume alcohol for the duration of his supervision and the defendant must undertake anger management and counselling programs as directed by his probation officer. The defendant is further warned that failure to comply with any special condition imposed in his supervision sentence, is an offence that could result in the activation of his suspended sentence of imprisonment.
16. The defendant shall also perform 100 hours of Community Work under the guidance and joint supervision of the probation officer and Chief Albert Manliesenu.
17. The defendant is informed of his right to appeal this sentence within 14 days if he does not agree with it.

DATED at Port Vila, this 16th day of August, 2018.

BY THE COURT


D. V. FATIAKI
Judge.

