

BETWEEN: Public Prosecutor

AND: Jason Tensley Tari
Defendant

Date: 13 December 2018
By: Justice G.A. Andrée Wiltens
Counsel: Ms B. Pakoasongi for the Public Prosecutor
Mr S. Hakwa for the Defendant

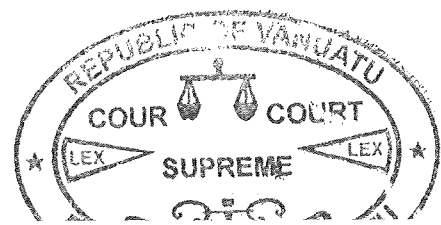
SENTENCE

A. Introduction

1. Mr Tari pleaded guilty to one charge of intentional assault. The maximum sentence for the offence is a term of 12 months imprisonment.

B. Facts

2. There is some background to what eventuated, but eventually Mr Tari's annoyance with his relative over the use of a bus led to him going to the complainant's house after some inflammatory communications. On arrival Mr Tari was let in and he immediately had words with the complainant, grabbed him by his clothes and assaulted him in the face until the complainant escaped. The complainant was later medically examined and found to have "bleeding on his left cheek, lacerations on his cheek and swells on his face". The assault occurred in the presence of young children.
3. Mr Tari admitted his offending to the police the same day.
4. Mr Tari disputes making a telephone call to the complainant before going to his house, and disputes also that there was more than a single blow. For sentencing, I accept both sides made the matter worse rather than better before Mr Tari decided to take matters into his own



hands. The injuries inflicted demonstrate for me that there was more than just a single blow administered.

C. Aggravating and Mitigating Factors of the Offending

5. The aggravating factors to be considered include that there was an element of controlling behaviour and taking advantage of the complainant's generosity, pre-meditation, and the assault occurred in the presence of young children. Despite the fact that blows were aimed at the head I do not see that as aggravating as I cannot be satisfied on the evidence presented that they were anything more than open-handed blows or slaps.
6. There are a no mitigating factors to the offending.

D. Start Point

7. The start point for this offending, as required to be identified by *PP v Andy* [2011] 14, is set at 6 months imprisonment. That accords with Mr Blessing's written submissions.

E. Personal Factors

8. Mr Tari has no previous convictions. He was 32 at the time and appears to have good standing within his local community. I note also that he has spent 14 days in custody in relation to this case.
9. The final matter of mitigation is Mr Tari's plea. For his plea, I allow 33.3% reduction to the end sentence.

F. End Sentence

10. This offending does not warrant immediate imprisonment, or even suspended imprisonment – it is not sufficiently serious for that. The end sentence that is imposed is an order to complete 100 hours of Community Work; and an order to pay reparation to the complainant of VT 25,000 within 21 days.
11. Mr Tari has 14 days to appeal this sentence if he disagrees with it.

Dated at Port Vila this 13th day of December 2018
BY THE COURT

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Justice G.A. Andrée Wiltens

