

PUBLIC PROSECUTOR

V

MOSES IARUBEN

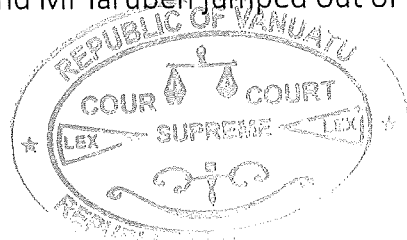
TANGAP NAKOU

NIARE TAGAL

Date of Hearing: 20th March 2019
Coram: Justice Dudley Aru
Counsel: Marie Taiki for Public Prosecutor
Andrew Bal for Defendants

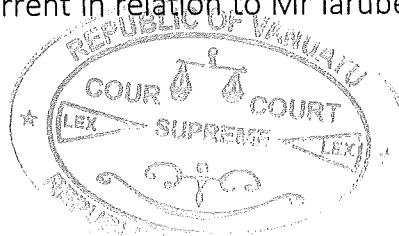
SENTENCE

1. Mr Moses Iaruben, Ms Tangap Nakou and Ms Niare Tagal you appear today for sentencing in this matter. You were all charged with one count of intentional assault causing damage of a temporary nature. Mr Iaruben and Ms Nakou you were both also charged with one count of kidnapping. On 4 September 2018 you all entered guilty pleas to these charges.
2. Kidnapping someone against their will is a very serious offence and is punishable by a maximum penalty of 10 years imprisonment. Intentional assault on the other hand if the damage caused is of a temporary nature is punishable with a maximum penalty of 5 years imprisonment.
3. The Prosecution brief of facts which is accepted by the defendants sets out a summary of the offending as follows. On 21 November 2017 the complainant was walking on the road side towards No. 2 Lagoon when a brown Hyundai bus stopped beside her and Mr Iaruben jumped out of the



bus and forced the complainant into the bus without her consent. The bus then drove off. Also sitting inside the bus was Ms Nakou. All three then sat on the back seat of the bus. As the bus drove off Mr laruben and Ms Nakou proceeded to slap the complainant and punched her inside the moving bus.

4. The bus eventually stopped somewhere in the Teouma bush area. When the complainant got out of the bus Ms Tagal proceeded to slap her and held the complainant by the throat. After being assaulted the complainant was taken back to No 2 Lagoon in the bus. On 24 November 2017 she filed her complaint with the Police. The defendants were subsequently arrested and cautioned before being interviewed on 8 February 2018.
5. The complainant was treated at the Vila Central Hospital on 21 November 2017. Her medical examiner observed that there were multiple blunt trauma to the head and face with bruises behind the ears and on the neck and chest. It was also noted that there were scratch marks on the complainant's lower and upper limbs.
6. The prosecution submits that the complainant was terrified by the aggressive manner in which she was grabbed and thrown into the bus and assaulted. It was further submitted that the starting sentence for count 1 should be 3 years imprisonment and 1 year imprisonment for count 2. Defence counsel on the other hand submits that some leniency should be shown to the defendants given their age and the fact that they have reconciled their differences with the complainant by performing a custom reconciliation and giving the complainant VT 10,000 which she accepted . As no weapon was used it was submitted that the end sentence for count 1 should be 18 months imprisonment and 6 months imprisonment for count 2 and that these sentences be suspended.
7. The offending is aggravated by the following factors. First there is an element of planning involved. In her statement to the Police, the complainant stated that when they arrived at Teouma bush, there were people waiting for them. Force was used to get the complainant into the bus against her will and she sustained injuries to her body as a result of the defendants' actions.
8. I adopt a starting point of 3 years imprisonment for count 1 and 1 year imprisonment for count 2 to be concurrent in relation to Mr laruben and



Ms Nakou. In relation to Ms Tagal, the starting point for her sentence on count 2 is 2 years imprisonment.

9. In mitigation, defence counsel submits that all three defendants are elderly people with good character and are also first time offenders with no previous record. It was submitted that they cooperated with the Police and entered guilty pleas at the first opportunity and are remorseful for their actions as demonstrated in the performance of custom reconciliation.

Moses Iaruben and Tangap Nakou

10. As first time offenders I deduct 12 months from your concurrent start sentence reducing your sentence to 2 years imprisonment. For your guilty pleas you did not admit the offending when questioned by the Police. That would have been the earliest opportunity to admit the offending. 3 months is deducted for your guilty pleas further reducing your sentence to an end sentence of 1 year and 9 months imprisonment to be served concurrently.

Niare Tagal

11. As a first time offender I deduct 1 year reducing your sentence to 12 months imprisonment. You also did not admit the offending to the Police. I deduct 3 months for your guilty plea thus reducing your sentence to an end sentence of 9 months imprisonment.
12. For now all your sentences are suspended for a period of 3 years. Should you reoffend during this time, you will serve the full term of your sentence in custody.
13. You have 14 days to appeal if you are not happy with the decision.

DATED at Port Vila this 20th day of March, 2019.

BY THE COURT



DUDLEY ARU

Judge

