

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

Criminal
Case No. 20/485 SC/CRML

BETWEEN: Public Prosecutor

AND: Sam Philimon
Defendant

Coram: *Justice Aru*
Counsel: *Ms. G. Kanegai for the Public Prosecutor*
Mr. H. Vira for the Defendant

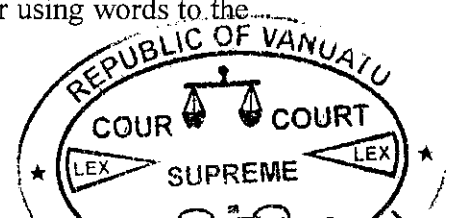
SENTENCE

Introduction

1. Mr Sam Philimon you are in Court today to receive your sentence. You were charged with one count of domestic violence, one count of threats to kill and one count of breach of family protection order. You pleaded guilty to these charges and I convict you accordingly.
2. Threatening to kill someone is punishable by a maximum sentence of 15 years imprisonment. Domestic violence is punishable by imprisonment not exceeding 5 years or a fine not exceeding VT100, 000 or to both. And the breach of a family protection order is punishable by imprisonment not exceeding 2 years or a fine not exceeding VT50, 000 or to both.

The Fact

3. The facts are not disputed On 15 October 2019 at Ohlen Area you assaulted the complainant who is your de facto partner several times. You were drunk and on returning home you started accusing the complainant for voting for a particular candidate without your approval. You were abusive her and called her a Slut.
4. You swang a knife towards her but she jumped to avoid being cut. When she removed the knife from you, you assaulted her with your fist on the right side of her face loosening some of her teeth. You then picked up a rock and threw it at her hitting her on the left side of her body. You then threatened her using words to the



effect that: ***"You think I am afraid of Prison? I am not afraid of what the Magistrate said. The Law applies to all, I am not afraid of the law. I will kill/murder you now and can go to jail for it."*** The complainant then became fearful for her life as you picked up another rock and threw it at her.

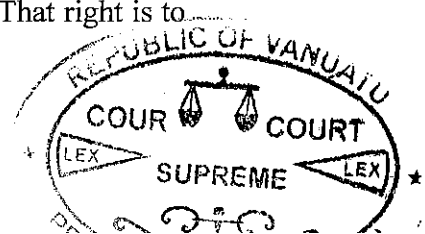
5. The rock hit her left hand causing it to fracture. She started crying and ran to her neighbour's yard. You followed her. The neighbours remained in their house and did not come out as they too were afraid of you. The complainant opened the gate with her right hand. At the same instant you grabbed her by her fractured left hand and attempted to drag her back to your house. As you were pulling her, she held firmly to the gate and a piece of wiring from the gate tore her right hand.
6. One of your sons intervened and took the complainant home. At the house you continued to threaten the complainant with words to the effect that ***"I can kill/murder you, I am not afraid of jail, the law is created for humans and not animals"***. The complainant fainted and her children washed her with water until she regained consciousness. She was later transported to the Hospital by Pro-Medic.
7. She was admitted and discharged later that same day. The complainant left the hospital at about 6pm but could not lodge her complaint with the police as you were with her when she was discharged. Upon arriving at home you apologised to the complainant and said words to the effect that: ***"if you wish to make a complaint to the police you may do so but you will not visit your families, you know what I am capable of"***.
8. The complainant did not lodge her complaint until 17th of October 2019 after attending the Vila Central Hospital to dress her wounds.

Aggravating Factors

9. The complainant is in a relationship with you as your de facto partner and expected to be cared for. Your actions were far beyond that. There was a breach of trust. The offending occurred in the home where the complainant should feel safe and protected. Instead she was threatened with a weapon. A knife and rocks were used against her which made her fear for her life.

Starting Point

10. Threatening to kill your partner with a knife for voting for a particular candidate in a general election without your approval is totally wrong. The Constitution gives every citizen, man and woman over the age of 18 the right to vote. That right is to



be exercised equally and in secret. The complainant does not need your approval to vote for any candidate of her choice.

11. In assessing the starting point of your sentence, taking the offence of threat to kill as the lead offence and noting the aggravating factors I set an overall starting point of 6 years imprisonment.

Personal Factors

12. Your pre-sentence report states that you are 54 years old and you are a grandfather of 5 children and work as a security officer. You left school at class 6 and could not continue due to financial difficulties. Your skills are in fishing and gardening and you have a good relationship with your community. You are also a member of the SDA church.

13. The presentence report states that you performed a custom reconciliation to the complainant and your children by exchanging:-

- One mat
- One carton chicken wings
- One 25kg bag rice
- VT2,000 cash

14. You are not a first time offender. Your first offending was for attempted incest with your own daughter. You were given a suspended sentence of 2 years imprisonment with 300 hours of community work. This is your second offending. You spent roughly 6 months on remand before being released on bail. You told your probation officer that you are remorseful for your actions and blame being under the influence of alcohol.

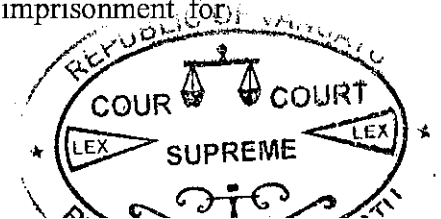
15. 12 months is deducted for the time spent on remand and for your personal factors.

Guilty Plea

16. You pleaded guilty at the earliest opportunity therefore your sentence is discounted by one third.

End Sentence

17. Your end sentence is 3 years imprisonment for threats to kill. For domestic violence you are sentenced to 12 months imprisonment and 6 months imprisonment for



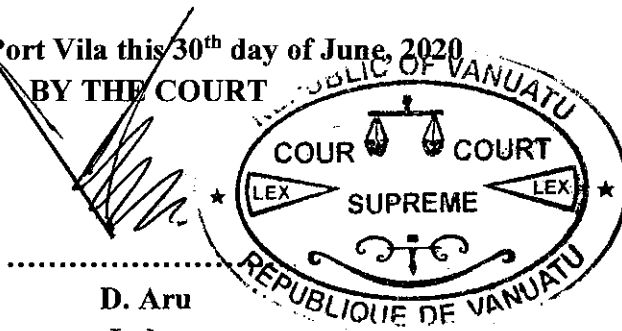
breach of a protection order. The sentence is to be served concurrently with effect from today.

Conclusion

18. You have 14 days to appeal if you are not happy with the decision.

DATED at Port Vila this 30th day of June, 2020

BY THE COURT



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D. Aru
Judge