

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

Criminal
Case No. 20/757 SC/CRML

BETWEEN: Public Prosecutor

AND: Jeremiah Kaurua
Accused

Coram: *Justice Aru*
Counsel: *Ms. M. Taiki for the Public Prosecutor*
Mr. L. Malantugun for the Defendant

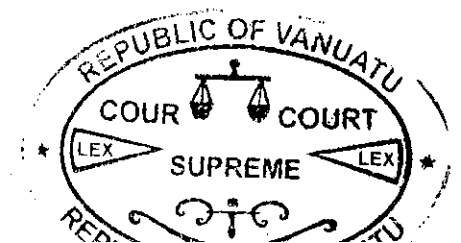
SENTENCE

Introduction

1. Mr Jeremiah Kaurua this is your sentence in relation to a single charge of unintentional harm. The maximum penalty for the offence where the damage caused results in death is 5 years imprisonment. You pleaded guilty to the charge and I convict you accordingly.

The facts

2. The facts are not disputed. On the 14 February 2020 you were driving a silver grey Mitsubishi single cabin truck with registration No TPT1577 heading towards Teuma. Whilst trying to avoid a head on collision with another vehicle you lost control of your truck. The deceased who was sitting in the tray was thrown out as a result and severely injured herself. She died some minutes after being taken to the hospital.
3. Prior to the accident, whilst on your way from Teuma to the wharf to pick up a bag of kava, you picked up the deceased who was also heading into town to get cargo at the Chuan Store probably for her shop. You dropped her off at the store then headed to the wharf to get the kava. Another relative was also in the truck with you sitting on the passenger side. After taking the kava you returned to Chuan Store to pick up the deceased with her cargo. Before you left Chuan store the deceased insisted that she sit at the rear of the vehicle in the tray with her cargo despite being asked to sit inside.



4. You then left to return to Teuma. You were travelling at around 70 km per hour when you overtook a septic truck around the No 2 Lagoon area. At the same time a dark grey Hyundai bus was approaching fast from the opposite direction. As you turned the vehicle to return to your side of the lane the deceased was thrown out of the vehicle and fell on a tree trunk and some rocks on the side of the road. You also lost control of the vehicle as it left the road and hit the tree trunk where it stopped.
5. By the time the septic truck driver and his workers stopped and came to the scene, the deceased was found lying on the ground and bleeding. Another vehicle took her to the Vila Central Hospital (VCH) but died within minutes of her arrival. All attempts to revive her failed and she was pronounced dead.
6. Witnesses who saw the accident said that you were driving at speed as you overtook the septic truck before the accident occurred. A medical report issued by the VCH confirmed that when the deceased was examined, she was bleeding from her nose, ears and had a superficial laceration on her forehead measuring 3 cm long. The report concluded that the deceased died from internal injuries sustained as a result of the accident.

Aggravating factors

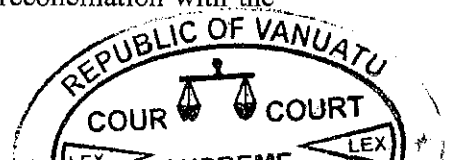
7. The offending is very serious as it resulted in the deceased losing her life. You drove at high speed when trying to overtake the vehicle in front of you and failed to keep a proper lookout for oncoming vehicles before overtaking.

Starting point

8. Taking all the above factors into account I set the starting point of your sentence at 3 years imprisonment.

Personal factors

9. Your presentence report states that you are 35 years old and you are also from the island of Tanna. You are the eldest in your family. Currently you are living in a de facto relationship and you have three children who live with you at Eratap area. You started your primary and secondary education on Tanna before moving to Vila. In Vila you attended NTM School from year 8 to 10, and Vila City College from year 11 and 12. You have held a various jobs over the years as a cooperative supervisor to filing clerk at Parliament and now you are working as a Correctional Services Officer on a contract basis.
10. Your wife works on a cruise ship and you are the one taking care of the children. Your chief speaks highly of you that you relate well with your community leaders and participate in community activities. You performed a custom reconciliation with the



deceased's husband and family by exchanging food items, including 1 pig, 1 cow and also other items over a period of 3 days of mourning. The total value of the items exchanged and contributed amount to roughly around VT440,000. You also paid for the hospital expenses, the coffin and cemetery fees for the burial. You admitted to the probation officer that the facts are true and that you are remorseful for what happened.

11. Counsel on your behalf submits that you are a first time offender with a crime free past and you cooperated with the Police with their investigation.

12. 12 months is deducted for your personal factors.

Guilty plea

13. You entered a guilty plea at the first available opportunity therefore your sentence will be discounted by one third.

End sentence

14. Your end sentence is rounded off to 15 months imprisonment.

Suspension

15. In considering whether the sentence should be suspended, I am guided by what the Court of Appeal said in **Jenkinson v Public Prosecutor** [2000] VUCA 5. Looking at the nature of the crime and the overall circumstances of this case, a suspension would not be out of order as you are a first time offender as well.

16. Your sentence is therefore suspended for a period of 2 years. Should you reoffend during this time you will be remanded to serve the sentence.

Conclusion

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

DATED at Port Vila this 25th day of June, 2020

BY THE COURT

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D. Aru
Judge

