

BETWEEN: Public Prosecutor

AND: Kalsei Tony
Defendant

Date: 26 August 2021
By: Justice G.A. Andrée Wiltens
Counsel: Ms G. Kanegai for the Public Prosecutor
Mr H. Vira for the Defendant

SENTENCE

A. Introduction

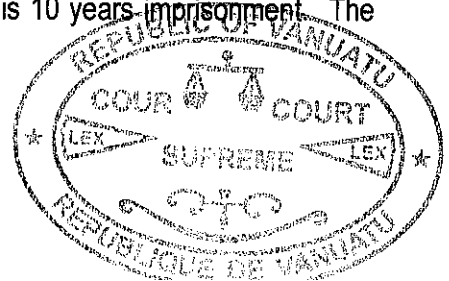
1. Mr Kalsei pleaded guilty to threat to kill and intentional assault.

B. Facts

2. On 6 March 2021, the complainant, Ronneth John, and others were building a nakamal for the Unakap community on Nguna Island. While so doing, Mr Ronneth misplaced his phone. He asked around but with no success. On a previous occasion, Mr Ronneth's bush knife had also gone missing. He became angry when considering the 2 incidents and took up a box of matches in order to set the nakamal alight.
3. At that point, Mr Kalsei threatened to kill Mr Ronneth and then kicked him to his left jaw. This resulted in breaking his jaw, with Mr Ronneth being later admitted to Port Vila Central hospital.

C. Sentence Start Point

4. The sentence start point is to be assessed by having regard to the maximum sentence available for this offending, and factoring in both the aggravating and mitigating aspects of the offending.
5. The maximum sentence for the offence of intentional assault is 10 years imprisonment. The maximum sentence for threat to kill is 15 years imprisonment.



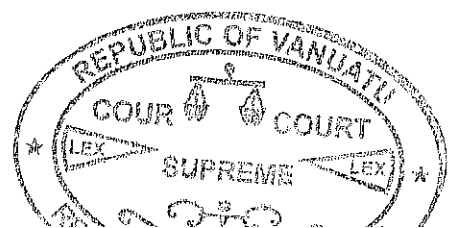
6. There are no aggravating factors to the offending, other than the effects of this episode on Mr Ronneth, and the fact that the attack was conducted by a person wearing footwear while attacking the head of another. However, I consider it to be mitigating that what Mr Ronneth was attempting to do was to undermine the hard work previously carried out in the construction of the nakamal. It is alleged by Mr Kalsei that not only did Mr Ronneth lose his temper, but that he was drunk and intent on deliberately causing damage to the nakamal. Mr Kalsei maintains that he acted as he did to prevent Mr Ronneth doing great damage. I also note that the incident was of very brief duration with only one kick administered.
7. I adopt a sentence start point of 2 years 10 months imprisonment for the intentional assault, uplifted by 2 months for the threat to kill. I consider the threat to be little more than hot air, uttered on the spur of the moment, and with no real intent behind the statement.

D. Personal Factors

8. Mr Kalsei pleaded guilty to the charges at an early stage. However, the evidence against him was strong, and accordingly guilty pleas were really his only option. Despite that, his pleas indicate that he has accepted his wrong-doing, and it has also saved Court time and expense. For Mr Kalsei's prompt pleas, I reduce the sentence start point by 25%.
9. Mr Kalsei is now 43 years old. He is married with 4 children. As his wife is currently an RSE worker, Mr Kalsei is solely responsible for caring for the children. He has skills in farming and joinery and is considered an asset by his Chief and his community.
10. He has no previous convictions. He stated he is remorseful, and did not really understand the effects of what he's done until he learnt of Mr Ronneth's hospitalisation. This appears to be an out of character episode for Mr Kalsei.
11. Mr Kalsei has not performed a custom reconciliation ceremony, but states that he is willing to do so. He points to the fact that Mr Ronneth's family declined to take part in such a ceremony.
12. For Mr Kalsei's personal factors, I reduce the sentence start point by a further 6 months.

E. End Sentence

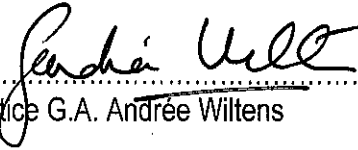
13. Mr Kalsei is sentenced to 1 year 9 months imprisonment for the assault, and 3 months for the threat to kill. The sentences are to run concurrently.
14. This Court has a discretion to suspend all or part of the sentence in certain circumstances.
15. I consider the important sentencing principles of holding Mr Kalsei accountable for his loss of temper and unwarranted violence, as well as the need for a deterrent sentence to be imposed will not be undermined by suspending the sentence.
16. The greater consideration is the interests of Mr Kalsei's four children who rely exclusively on him for their welfare.
17. Accordingly, I am prepared to suspend Mr Kalsei's sentence for a period of 2 years. He must remain offence-free for 2 years to ensure he does not need to serve that term.



18. In addition, I order Mr Kalsei to complete 120 hours of community work.

1. Mr Kalsei has 14 days to appeal the sentence.

Dated at Port Vila, this 26th day of August 2021
BY THE COURT


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Justice G.A. Andrée Wiltens

