

**BETWEEN: The Public Prosecutor
Prosecutor**

**AND: Esrom Nockac
Defendant**

**Coram: Justice Aru
Counsel Mr. D. Boe the Public Prosecution
Mr. A. Bal for the Defendant**

SENTENCE

Introduction

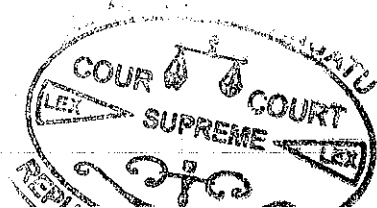
1. Mr Esrom Nockac appears for sentencing on one count of unintentional harm causing death.

The facts

2. On 12 February 2022 the defendant was driving a Toyota bus at Banban area under the influence of alcohol and was travelling at a very high speed. At Belbarav area the defendant overtook another vehicle and continued driving on the wrong side of the road when he hit the deceased riding a Yamaha Motor cycle. As a result of the accident the deceased died.
3. The defendant admitted the offending to the Police later after he was arrested, cautioned and interviewed.

Starting point of sentence

4. The starting point of sentence is assessed by considering the maximum sentence available for the offending and taking into account any aggravating or mitigating factors. The maximum sentence for unintentional harm causing death is 5 years imprisonment.
5. The offending is aggravated by a number of factors. The defendant was driving under the influence of alcohol and he was driving on the wrong side of the road a great speed. There are no mitigating factors. The starting point of sentence of 3 years imprisonment.



Mitigation

6. The defendant entered his guilty plea at the earliest available opportunity as a sign of remorse. The sentence will be reduced by a one third discount.
7. A Same Day Report was filed. The following information is gathered from the report. The defendant is a first time offender from Lahti village Hog Harbour. He left school at year 9. He is married with two children. He is the breadwinner of the family as his wife is away in New Zealand doing seasonal work. He earns his income by selling cattle and root crops. As a first time offender and taking account of his personal factors, I reduce the end sentence by 8 months.
8. The defendant performed a custom reconciliation to the deceased's family by giving the following items:-
 - A cow
 - 5 mats
 - 3 bundle taro
 - 2 bags of potato
 - 2 25kg bags of rice
 - A sum of VT 37,000
 - 2 hectares of land
9. The deceased's wife accepted the reconciliation.
10. For the custom reconciliation the end sentence is further reduce by 4 months.

End sentence

11. The end sentence is therefore 1 year imprisonment. Applying my mind to s 57 of the Penal Code, I will suspend the sentence for a period of 2 years. In addition the defendant will perform 100 hours of community work.
12. The defendant has 14 days to appeal if he is dissatisfied with the decision.

DATED at Luganville this 21st day of October, 2022

BY THE COURT

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D. ALEX
Judge

