

**PUBLIC PROSECUTOR**

**v**

**HENRY NAMUA**

*Date:* 25 November 2022  
*Before:* Justice V.M. Trief  
*Counsel:* Public Prosecutor – Mr G. Simeon  
Defendant – Mr R. Melsul

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**SENTENCE**

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**A. Introduction**

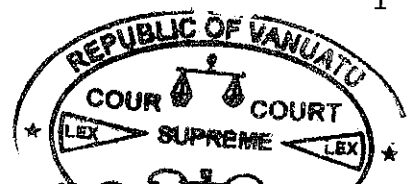
1. The Defendant Henry Namua pleaded guilty and accepted the brief facts relating to possessing a firearm or ammunition without a firearms licence (Charge 1) and unintentional harm causing temporary injury (Charge 2). He was convicted on his own pleas and the admitted facts.

**B. Facts**

2. Mr Namua is 77 years old and lives at Imaki area, Tanna. The complainant Ella lawiko is Mr Namua's 15 year old daughter. She also lives on Tanna.
3. On 29 January 2022, Ella was helping chase chickens for Mr Namua to shoot with a 0.22 rifle. Ella was shocked when she was shot in her left thigh (Charge 2).
4. Mr Namua was in possession of the 0.22 rifle serial number 41521 and ammunition without holding a valid firearms licence (Charge 1).

**C. Sentence Start Point**

5. The sentence start point is assessed having regard to the offending, its aggravating and any mitigating features, the maximum sentence set by Parliament and guidance provided by earlier cases.



6. The maximum penalties for the offending are:
- Possession of firearm and ammunition without firearms licence contrary to s. 3 of the *Firearms Act* [CAP. 198] – fine not exceeding VT20,000 or 6 months imprisonment or both; and
  - Unintentional harm causing temporary injury – 3 months imprisonment.
7. There are no mitigating aspects of the offending.
8. The aggravating factors include:
- Breach of trust;
  - A weapon was used; and
  - The offending occurred in front of other children.
9. The Prosecution submitted that a sentence starting point of 4 months imprisonment was appropriate.
10. Mr Melsul conceded that a sentence start point of 4 months imprisonment was appropriate, citing *Public Prosecutor v George* [2017] VUSC 51.
11. Taking all matters into account, the sentence start point adopted is 4 months imprisonment. Mr Namua is not employed therefore a fine will not be imposed.

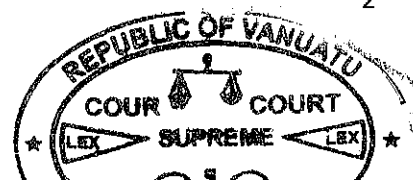
D. Mitigation

12. Mr Namua pleaded guilty at a reasonably early opportunity. Accordingly, one third is deducted for his prompt guilty pleas.
13. Mr Namua is 77 years old. He has no previous convictions. He suffers from hypertension. Both he and his wife are elderly and interdependent on each other for their daily living.
14. He performed a custom reconciliation ceremony to Ella and the family which was accepted involving 5 mats, 2 stems of kava and one cow which cost VT200,000 and some local food crops. He is remorseful. He made full admissions to the Police.
15. Mr Namua spent 1 day in custody, in Cell No. 6.
16. I deduct 1 month for Mr Namua's personal factors.

E. End Sentence

17. Taking all of those matters into account, the end sentences imposed concurrently are:

- a. Possession of firearm and ammunition without firearms licence (Charge 1)  
1 month 2 weeks imprisonment; and



- Unintentional harm causing temporary injury (Charge 2) 1 month imprisonment.

18. Given the offending was unintentional, Mr Namua's old age, lack of previous convictions and health status, the sentence is suspended for 12 months. Mr Namua is warned that if he is convicted of any offence in the next 12 months, that he will be taken into custody and serve these sentences of imprisonment, as well as the penalty imposed for the further offending.

19. The 0.22 rifle serial number 41521 is to be destroyed.

20. Mr Namua has 14 days to appeal.

**DATED at Isangel, Tanna this 25<sup>th</sup> day of November 2022  
BY THE COURT**

*VM Trief*  
Justice Viran Molisa Trief

