

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

**Criminal  
Case No. 23/472 SC/CRML**

**BETWEEN: Public Prosecutor**

**AND: Jack Lui  
Defendant**

**Date of PLEA:** *6<sup>th</sup> June 2023*  
**Date of Sentence:** *21<sup>st</sup> August 2023*  
**Before:** *Justice Oliver Saksak*  
**In Attendance:** *Mr Jordan Aru for the Public Prosecutor  
Mr Brian Livo for the Defendant*

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**SENTENCE**

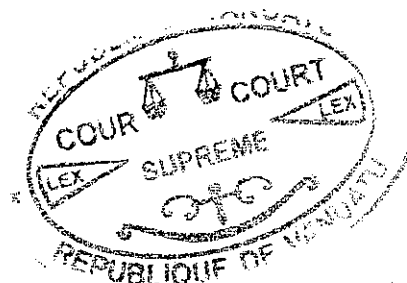
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**Introduction**

1. Jack Lui pleaded guilty to one count of threats to kill ( section 115 PCA) to one charge of intentional assault ( section 107(b), PCA) and to one charge of domestic violence ( section 4(1) (a) and 10 of the Family Protection Act. He is here for sentence today.
2. These are serious offences. Threats to kill carries the maximum penalty of 15 years imprisonment. Intentional assault causing injuries of a temporary nature carries the maximum penalty of 5 years imprisonment. And domestic violence attracts the maximum penalty of not more than 5 years imprisonment or a fine not exceeding VT 100,000 or both.

**Facts**

3. The victim is the defacto partner of the defendant. The offending started on 22<sup>nd</sup> December 2021 at about 4:00pm. The victim was baking some home made bread. The defendant approached her and gave her some instructions about how to mix dough. The victim did not pay much attention to him. The result was that the bread were burned and the defendant complained. The victim became angry and chased him with a knife. This



made him angry and started to chase her around the house. He caught her by her hand, slammed her against the wall of their house causing her to cry out in pain.

4. Following that incident of assault and battery the defendant went into the house, took some bullets and showing them to the victim, he threatened her by saying words to the effect:

*“ Hemia blong yu. Spos mi sutum yu tet, ol family blong you oli kam krae from yu, hemia blong olgeta.”*

He went further to say:

*“ Spos yu fraet yu hide bai yu mas hide good, spos me harem se yu stap wea, bae mi just kam from yu.”*

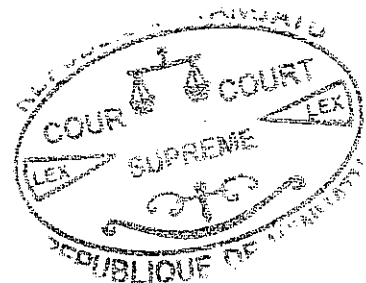
5. Those words uttered by the defendant made the victim fear for her safety and life and she left to return to her home Island of Buninga. She returned in June 2022 to Efate.

6. On 23<sup>rd</sup> January 2023 another incident happened at their home at Eratap. The defendant had without the victim’s permission broken off branches of the victim’s flower plant and given them to two individuals to plant. This made the victim upset and she swore at him.

7. The defendant then went into the house, took his gun and fired it into the air as a warning. Then he uttered words to the effect:

*‘ mi luk yu spos mi sutum naoia bae blood ikamaot lo maot blong yu wetem nus blong yu.’*

8. The defendant’s son in law heard the commotion and told his partner who is the daughter of the defendant. This made the defendant get more angrier that he shot three of their chickens down. He took a piece of wood and hit his victim’s head with it. The defendant then pushed her over and she fell to the ground. The defendant then picked her up by her hair and beat her head against the ground.



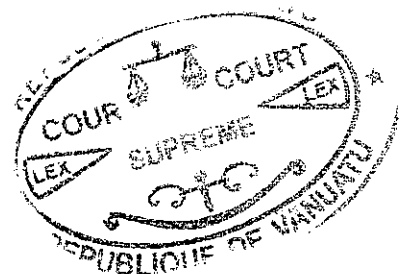
## Discussion

9. The only explanation for his behavior on 23<sup>rd</sup> January 2023 was that the victim had sworn at him in public with the women to whom he had given the flower branches and this made him angry. He admitted holding his gun but that he had no intention of shooting the victim. For the December 2021 incident, the defendant said it was the victim who had chased him with a knife wanting to cut him. He then retaliated.
10. The abusive language or swear words used by the victim to the defendant did not warrant or excuse the defendant to resort to his gun and utter the second threats to shoot her with it so that blood would flow from her mouth and nose.
11. Even then, this was the second time the defendant had threatened to use his gun to shoot the victim. And the threats were extended to her family and relatives as well if they came to cry for her. These were first made in December 2021 which caused the victim to leave the home for a while.
12. The case of Walker v Public Prosecutor [2007] VUCA 12 is clear authority that cases of this nature always warrant imprisonment to reflect the seriousness of the offence.
13. In this case a gun was involved in the use of the verbal threats. The gun was fired into the air first and then on three chickens to fend off the defendant's anger. He then used a piece of wood to his victim on her head. Then he made her fall to the ground and holding her by her hair beat her head against the ground. These were violent actions which were unlawful and unwarranted.

Those actions distinguish this case with the cases of Vano, Willie, David, Peter John, Tari Malon Hori and Kalipo referred to by Mr Livo in his sentencing submissions.

## Start Sentence

14. Taking all these aggravating features into account together with the seriousness of the offences committed, I adopt the starting sentences of:-



- a) 5 years imprisonment for threats to kill- Count 1
- b) 2 years imprisonment for intentional assault- Count 2,
- c) 2 years imprisonment for the domestic violence- Count 3, concurrent.

15. The total concurrent sentence is therefore 5 years imprisonment.

**Mitigation**

16. In mitigation, first I take into account his guilty plea at first opportunity. His sentence is reduced by 1/3 which is 1 year 8 months, leaving the balance at 3 years and 4 months.

17. For a substantial custom reconciliation showing remorse, clean past record, his background and other personal factors, I allow a further reduction of 16 months, leaving the balance of 2 years imprisonment. I note from the PSR that despite the reconciliation the victim has not returned to the defendant’s house. That indicates she still feels unsafe and uncomfortable.

**End Sentence**

18. Jack Luis you are now convicted and sentenced to an end sentence of 2 years imprisonment as a concurrent sentence for all 3 offences- committed.

19. There are no exceptional circumstances to warrant a suspension of the sentence.

**Effective Date and Right of Appeal**

20. Your sentence will be effective after 14 days from today ( on Monday 4<sup>th</sup> September 2023) . You may wish to appeal against the sentence within those 14 days.

**DATED at Port Vila this 21<sup>st</sup> day of August 2023**

**BY THE COURT**

OLIVER.A.SAKSAK

Judge

