

PUBLIC PROSECUTOR

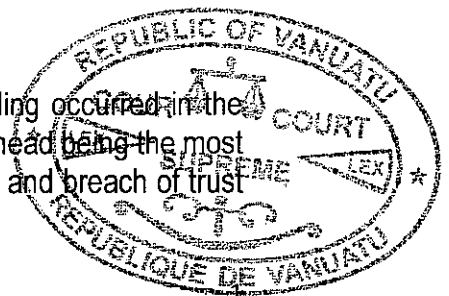
v

KALORIS SOALO

Date: 27 October 2023
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Ms G. Kanegai
Defendant – Mr F. Tasso

SENTENCE

1. The Defendant Kaloris Soalo pleaded guilty to intentional assault contrary to subs. 107(a) of the *Penal Code* [CAP. 135].
2. On 21 November 2019, the complainant Mr Falefia Motoutorua and his spouse Tereyn Tahe were driving home when Mr Soalo stopped them at Rangorango area on Efate. He had an axe in his hand. He asked why the complainant had shown some Tannese men to his house that morning. Mr Soalo told the complainant to come out from his vehicle then hit his eye and head with his fist. The complainant sat back down into the vehicle and Mr Soalo hit the car door and roof with his fist. The complainant's spouse tried to call the Police but Mr Soalo stopped her saying that if she did, he would kill them. On hearing these words, the complainant again spoke with Mr Soalo saying that what he was doing was unlawful. That was when Mr Soalo stopped.
3. Mr Soalo admitted his offending to the Police.
4. The maximum penalty for this offence is 1 year imprisonment.
5. It is a mitigating factor of the offending that although Mr Soalo had an axe in his hand, he did not use it in the physical act of assault of the complainant.
6. The offending is aggravated by the following factors: the offending occurred in the early evening, that the assault was inflicted on the complainant's head being the most vulnerable part of the body, there was a degree of premeditation and breach of trust as Mr Soalo and the complainant are cousins.



7. I adopt a sentence start point of 7 months imprisonment as appropriate for this offending.
8. Mr Soalo is 39 years old. He is in a *de facto* relationship and has 3 sons who are dependent on him. He is employed as a heavy duty driver for Mr David Russet and also has a side business as a mechanic.
9. In 2009, Mr Soalo was sentenced to 9 months imprisonment, suspended for 12 months. He did not receive any further sentence of imprisonment in the 7 years following the date of expiry of that sentence, therefore in accordance with ss 58ZG and 58ZH of the *Penal Code*, he was rehabilitated by the lapse of that time and his 2009 conviction has been omitted. Accordingly, Mr Soalo is deemed to have no prior convictions. Mr Soalo is reported by the pre-sentence report writer to have said sorry to the complainant over kava and to be remorseful.
10. For Mr Soalo's personal factors, I reduce the sentence start point by 15%.
11. Mr Soalo pleaded guilty at the earliest available opportunity. The maximum discount available for that is up to one-third of the sentence. However, the evidence against Mr Soalo was overwhelming. He had little option but to plead guilty. In those circumstances, I deduct 20% for the early guilty plea.
12. The end sentence imposed is 4 and a half months imprisonment.
13. This offending was serious. On the other hand, Mr Soalo's previous clean record, his compliance with his bail conditions and staying offence-free in the 4 years since his offending and work and family responsibilities favour suspension of sentence. I am therefore prepared to exercise my discretion under s. 57 of the *Penal Code* to suspend the sentence for 1 year. Mr Soalo is warned that if he is convicted of any offence during that 1-year period that he will be taken into custody and serve this sentence of imprisonment, as well as the penalty imposed for the further offending.
14. In addition, Mr Soalo is to complete 60 hours of community work.
15. Mr Soalo has 14 days to appeal the sentence.

**DATED at Port Vila this 27th day of October 2023
BY THE COURT**


Justice Viran Molisa Trief

