

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

Criminal
Case No. 22/1556 SC/CRML

PUBLIC PROSECUTOR

v

JESSY BAKEO

Date: 22 March 2023
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr L. Young
Defendant – Mrs P. Malites/Mrs K. Karu

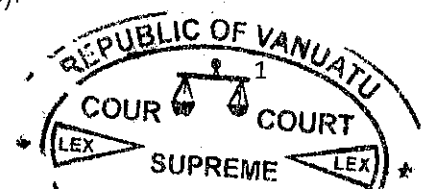
SENTENCE

A. Introduction

1. Mr Bakeo was convicted after trial of attempted intentional homicide (Charge 1) and threat to kill (Charges 2-4). He previously pleaded guilty to intentional assault causing temporary injury (Charge 5) with the summary of facts accepted as true and correct in relation to that charge. He is also convicted on that charge.

B. Facts

2. On 24 February 2022, Mr Bakeo entered Mr Manaseh Silli Aru's yard at Namburu area, Port Vila. He held Manaseh's 3-year-old daughter Heleno's hair tightly with his left hand and put the bale knife in his right hand to her neck (Charge 1). Mr Bakeo said that he would cut Heleno's neck (Charge 2). Mr Aru and others in the yard called out at Mr Bakeo and then he let go of Heleno.
3. Subsequently Mr Aru and Police Constable Jacky Lui approached Mr Bakeo outside Peter Chan Store. Mr Bakeo pointed his knife at PC Lui and told him to get back inside Mr Aru's truck. He was roughly 1 metre away from PC Lui. While pointing his knife at PC Lui's front right hand side shoulder and neck area, Mr Bakeo said words to the effect of threatening to cut off PC Lui's head ("*Spos yu muv, bae neck bae jump*") (Charge 3).



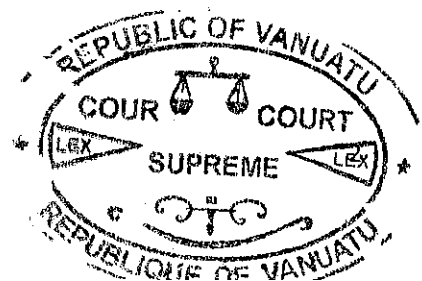
4. Mr Bakeo was chasing PC Lui around the truck when Mr Aru used a piece of firewood trying to defend PC Lui from Mr Bakeo's attack. Then Mr Bakeo turned away from PC Lui and came for Mr Aru with the knife. Mr Bakeo swore at Mr Aru and told him that today, he would knife him to death ("*Manaseh, tedei bae mi katem ded yu*") (Charge 4).
5. Mr Bakeo chased Mr Aru and cut him in the left forearm. He also stabbed him on the neck when Mr Aru was on the ground. Mr Aru suffered temporary injuries including 1 cm deep stab wound to the left forearm, 5 cm superficial knife wound on the left forearm and 10 cm superficial knife wound on the left shoulder region of his back as a result of Mr Bakeo's attacks (Charge 5). PC Lui intervened with another piece of firewood. Mr Bakeo then ran into the store and threw canned goods and bush knives at Mr Aru and PC Lui outside. A group of Vanuatu Mobile Force officers and Police officers attended and arrested Mr Bakeo.

C. Sentence Start Point

6. The sentence start point is assessed having regard to the maximum sentences available, and the mitigating and aggravating factors of the offending.
7. The maximum sentence prescribed in the *Penal Code* [CAP. 135] for attempted intentional homicide is 20 years imprisonment (para. 106(1)(a)); for threat to kill is 15 years imprisonment (s. 115); and for intentional assault causing temporary injury is 5 years imprisonment (s. 107(b)).
8. There are no mitigating factors however the offending is aggravated by:
 - Breach of trust – they were neighbours and Mr Aru and his family fed, clothed and helped Mr Bakeo by buying empty plastic bottles from him;
 - Use of a deadly weapon in the offending;
 - Age differential with Heleno, the youngest complainant;
 - The offending occurred at the complainant's home where she was entitled to be safe and protected;
 - The fear caused to other family members; and
 - The repetitive offending within a short period of time.
9. The factors set out above require a global sentence start point of 10 years imprisonment.

D. Personal Factors

10. Mr Bakeo is 31 years old. He is single and has no children. He is self-employed, selling empty plastic bottles to kava bars. He is a patient at the hospital Mind Care Clinic as a result of marijuana use. He has previous convictions. I deduct 3 months for his personal factors.



11. No deduction is made for diminished responsibility as submitted by Mrs Karu as s. 24 of the *Penal Code* provides for, 'Wherever criminal responsibility is diminished by law...'. However, none of the diminished responsibility submitted on Mr Bakeo's part occurred 'by law'.
12. The end sentence for Charge 5 will reflect a one third deduction for the guilty plea entered in relation to that charge.
13. Mr Bakeo has served time in custody from 25 February-6 March 2022 (10 days) therefore a further 10 days is deducted from the sentence start point.


E. End Sentence

14. Taking all of those matters into account, the following end sentences are imposed:
 - i. Attempted intentional homicide (Charge 1) 9 years 8 months 20 days imprisonment;
 - ii. Threat to kill (Charges 2-4) 5 years imprisonment; and
 - iii. Intentional assault causing temporary injury (Charge 5) 1 year 6 months imprisonment.
15. The sentences could be imposed cumulatively as the offending was against 3 separate persons. However, this would result in a crushing effect on Mr Bakeo therefore the sentences are to run concurrently: *Kalfau v Public Prosecutor* [1990] VUCA 9.
16. Mr Bakeo is currently serving the sentence of imprisonment imposed in *Public Prosecutor v Bakeo* [2022] VUSC 239; Criminal Case No. 2110 of 2022 (16 December 2022). The offending in that matter was unrelated to the offending in the present matter. Accordingly, the sentences imposed today are to commence once Mr Bakeo has completed serving the sentence imposed in Criminal Case No. 2110 of 2022.

F. Suspension

17. The offending is serious. Given the circumstances and Mr Bakeo's previous convictions, and the sentencing purposes of denunciation of the criminal conduct and deterrence, the sentences will not be suspended.
18. Mr Bakeo has 14 days to appeal.

DATED at Port Vila this 22nd day of March 2023
BY THE COURT


Justice Viran Molisa Tria

