

**BETWEEN:** Public Prosecutor

**AND:** Brimen Shem  
Defendant

**Before:** Judge Oliver A Saksak

**Counsel:** Ms Shirley Langon for Public Prosecutor  
Mrs Kylie Karu for the Defendant

**Date of Plea:** 7<sup>th</sup> November 2023

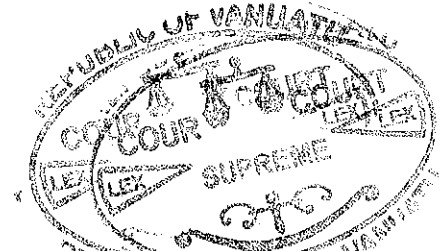
**Date of Verdict:** 13<sup>th</sup> December 2023

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### SENTENCE

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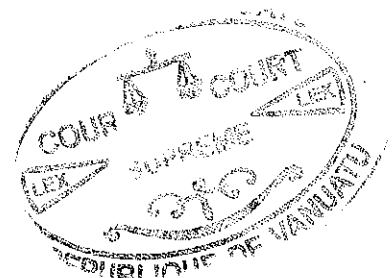
1. The defendant Brimen Shem pleaded guilty to 4 charges of domestic violence and to one charge of threats to kill and is here for sentence today.
2. He admitted to having assaulted his spouse on 12<sup>th</sup> August 2023 by punching her on her right eye causing injury of a temporary nature. This is the charge in Count 1. Further on 19<sup>th</sup> August 2023 he assaulted Ms Polin Damasing Maki again, his spouse with a hose pipe, the subject of the charge in Count 2. Then on the same date he caused damage to the door of Karen and Wesly Simon, the charge in Count 3. Then on 8<sup>th</sup> September 2023 he assaulted his spouse again by punching her on her right ribs and verbally abused her, the charge in Count 4. Finally he uttered threats to kill his spouse by saying "bae mi kilim yu ded", the charge in Count 5.
3. All these incidents occurred at Erakor area on Efate. And the victims are family members. Domestic violence carries the maximum penalty of 5 years imprisonment or a fine not exceeding VT 100,000 or both. And threats to kill carries the maximum penalty of 15 years imprisonment.
4. There are no mitigating circumstances for these offendings but the aggravating features were that-
  - a) There was a serious breach of trust.
  - b) The offence of domestic violence was repeated 4 times over a period of two months.
  - c) Injuries were caused to the body of his spouse.



- d) Damage to property was done to the door of his in-laws.
5. Taking all these factors into consideration and on his own guilty plea, I convict and sentence the defendant as follows-
- a) For Domestic violence in Counts 1, 2, 3 and 4 he is sentenced to 2 years imprisonment on each count to run concurrently. This sentence will be served concurrently with the 3 years imprisonment for the charge in Count 5.
- b) For threats to kill in Count 5, he is sentenced to 3 years imprisonment.

The total sentence shall be 3 years imprisonment as a concurrent sentence.

6. In mitigation I take into account first his guilty plea for which he is entitled to 1/3 reduction. The balance of the sentence is 2 years imprisonment.
7. I note he had performed two custom reconciliation ceremonies showing remorse. He is a first time offender with no previous convictions for these and other personal factors I deduct a further 8 months from his balance of 2 years imprisonment, leaving the balance end sentence to be 1 year and 4 months imprisonment.
8. I consider that in the circumstances, this sentence should be suspended. I order that his end sentence be suspended for 2 years on good behavior under section 57 of the Penal Code Act. This means that he must be offence free for a period of 2 years. If he commits any offences during these 2 year periods he will go to prison, if charged and convicted.
9. I impose an additional sentence of community work for 100 hours to be performed within 12 months from the date of this sentence.



10. That is the sentence of the Court. He has a right of appeal against this sentence within 14 days if he so chooses.

**DATED at Port Vila this 13<sup>th</sup> day of December 2023**

**BY THE COURT**

  
**Oliver A. Saksak**

**Judge**

