

PUBLIC PROSECUTOR v JONAH BOWIE

Before: Chief Justice V. Lunabek
Appearances: Mr D Boe for the State
Mr TJ Botleng for the Defendant
Date of Plea: 24 April 2023
Date of Sentence: 5 May 2023

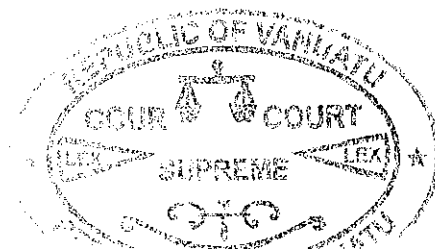
SENTENCE

A. Introduction

1. Jonah Bowie, you appear today for sentence.
2. On 24 April 2023, you entered guilty pleas in respect to one count of driving under the influence of alcohol drink, contrary to Section 16 and one count of causing death by reckless driving, contrary to Section 12 both of the Road (Control) Traffic Act [CAP. 29].

B. Facts

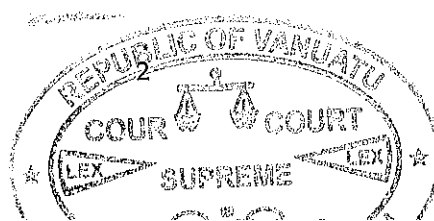
3. You are from South Santo. You were a transport driver.
4. The deceased is from Maewo island.
5. On 3rd of December 2022, you were driving a Gray Toyota Hilux registration number 9634 on the public road from Vimele village heading to Narango village.
6. You were, at the time, under the influence of alcohol. There were two passengers in the truck, the deceased and one Brightly Anis.



7. At around 19:00hours on the hill top at the first corner, road up to Narango village, you could not control you vehicle and the engine went off, the truck rolled over down the hill into a hole.
8. Brightly was outside so he jumped out of the truck, however, the deceased was inside the truck and he could not jump out so the truck rolled over with the deceased and you.
9. It is noted that on 5 December 2022, after the accident, you ran away leaving at the scene of the accident the deceased lying there at the passenger seat. Further you made no attempt to rescue or to assist the deceased.
10. The deceased sustained very serious injuries on his body and was transported to the hospital and was later pronounced dead by the medical doctor.
11. The death certificate dated 5 December 2022 reveals that the death of the deceased was resulted of Cardo – Respiratory Arrest due to multiple left rib to road traffic accident.
12. You participated in a recorded interview and you admitted that you were the driver of the truck at the time of the accident. You also admitted that you were under the influence of alcohol at the time of the accident.

C. Sentence Start Point

13. The maximum penalties for the two (2) offences are:
 - (i) Causing death by reckless driving – not exceeding 5 years imprisonment;
 - (ii) Driving under the influence of alcohol – fine not exceeding VT100,000 or imprisonment not exceeding 1 year, or both such fine and imprisonment.
14. There is no personal mitigating factors to the offending but the following aggravating factors exist in this case:
 - (i) You were driving at a high speed (as you admitted);
 - (ii) You made no attempt to rescue the deceased after the accident whilst the deceased sustained serious multiple injuries;
 - (iii) You left the deceased by himself lying there whilst sustaining serious multiple injuries;
 - (iv) You failed to report the accident after it occurred and you were absconded.
15. I adopt a sentence start point of 4 years imprisonment for the offence of causing death by reckless driving (Count 1) and 8 months imprisonment for driving under the influence of alcohol drink. Both sentences shall run concurrently. You have a sentence start point of 4 years imprisonment.

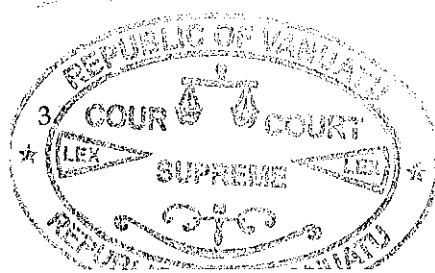


D. Mitigating Factors

16. You are 34 years old. You are from Mavun Village, South Santo. Your high level of education is Year 6 at Narango Primary School. You operate a public transport vehicle. You have a good relationship with your family and community. You were the chairman of water in your village Mavun for 2 years. You are a member of Neil Thomas Ministry and attended church regularly. You play music in the church. You stated you do not smoke or drink kava. You consumed alcohol liquor at your own desire.
17. You are a first time offender. You do not have previous conviction. I allow 6 months reduction to reflect your unblemished record.
18. Mr Bowie, you explained your offendings in this way. You were not under the influence of alcohol liquor at the time of your offending because the brakes of your new vehicle were not working. I cannot accept your new explanation of the accident. It is contrary to the facts upon which you entered a guilty plea on the charge of driving under the influence of alcohol liquor (Count 2). You have a lawyer who advised you on the instructions he received from you before you entered your guilty plea on 25 April 2023. You and your lawyer accepted the summary of fact. The Court directed and ordered for the sentence to be delivered today 5 May 2023. At no point in time, you or your lawyer informed the Court and the prosecution that you challenge the facts of driving under the influence of alcohol liquor.
19. You pleaded guilty at the first opportunity given to you by the Court. I allow a reduction of 33% of your sentence start point.

E. End Sentence

20. Your end sentence is 2 years and 4 months imprisonment.
21. The pre-sentence report recorded that you were remanded on 7 December 2022 to 21 December 2022. You were released on bail on 21 December 2022. You have spent 15 days in pre-custodial period. The time already spent be taken into account in your favour.
22. Your end sentence is 2 years and 4 months imprisonment which is deemed to be effective from 21 April 2023 to reflect the time you have already spent.
23. The nature and seriousness of the offending do not justify a suspension of your imprisonment sentence.
24. Your sentence is deemed effective on 21 April 2023.



25. You shall serve your sentence of 2 years and 4 months after 14 days ie. by 19 May 2023 or you may elect to serve your imprisonment sentence earlier (see Section 50 of the Penal Code).
26. The Correctional Services Centre shall manage your situation and records the start date of the enforcement of your sentence. If Mr Jonah Bowie does not elect to serve his sentence earlier and fails to start serving his imprisonment sentence on 19 May 2023, application for his arrest shall be issued and once he is arrested, he will be kept in custody to serve his sentence of 2 years and 4 months imprisonment.
27. You have 14 days to appeal this sentence if you are unsatisfied with it. The 14 days starts today 5 May 2023.

Dated at Luganville, Santo, this 5th day of May 2023

BY THE COURT

Chief Justice V. Lunabek

