

PUBLIC PROSECUTOR
v
WALE NOKLAM

Coram: *Hon. Chief Justice V. Lunabek*

Counsel: *G Kanegai for the State*
L Malantugun for the Defendant

Date of Plea: *22 Feb. 2023*

Date of Sentence: *25 May 2023*

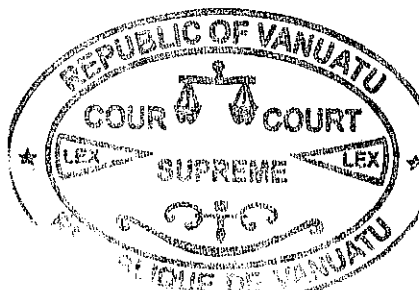
SENTENCE

A. Introduction

1. ~~Mr Wale Noklam, you appear for sentence today having entered a guilty plea guilty to one~~ Count of Domestic violence (Count 1) contrary to Sections 10 and 4(1)(a) of the Family Protection Act (the "Act") and not guilty plea to another offence of Domestic Violence in Count 2.
2. You were discharged of the second count of domestic violence (count 2), contrary to ss. 10 and 4(1)(a) of the Act on 27 February 2023. It was therefore dismissed on the prosecution's application under s.29 of the Criminal
3. You are sentenced on Count 1.

B. Facts

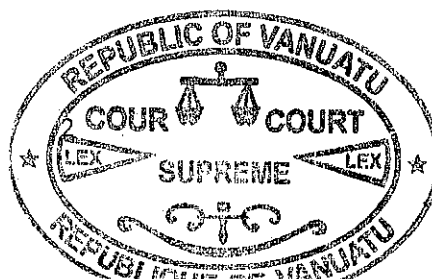
4. On 15 May 2022, at Erakor Half Road, Efate, the victim arrived home from work at ABM Freswota when you approached her and asked her for VT100. She responded she has no VT100 but a VT5,000 note.



5. You then instructed that she should give it to you and although she refused she gave you the money as she was afraid you would assault her. You argued and shouted at her when she refused to give you the money.
6. You left with the VT5,000 cash and purchased alcohol which you drunk with your friends over the night till the early hours of the following day 16 May 2022.
7. Around 3am of 16 May 2022 in the morning you arrived home and found your spouse (the complainant) sleeping on the floor. You were angry seeing her on the floor and asked her why she's angry with you but did not respond so you grasped her by her hair and pulled her causing her to lose some of her hair. The complainant felt so much pain on her head.
8. Early that morning she walked to USP and stopped a bus to the Vila Central Hospital and later lodged a complaint to the Police on that same day.

C. Sentence

9. The domestic violence offence carries a maximum penalty of a term of imprisonment not exceeding 5 years or a fine not exceeding VT100,000, or both a fine and imprisonment.
10. There is no personal factors of the offending but the following aggravating factors exist in this case:
 - The victim woman is your wife; she is supposed to be protected by you;
 - The offence occurred within the confine of your home where she should live in peace;
 - The offending involved the emotional exploitation of vulnerable person, being a woman;
 - There is a serious breach of trust. Your wife will no longer trust you and she will fear you for her safety;
 - The victim woman lost some of her hair.
11. The prosecution submits for a sentence start point between 1 to 2 years imprisonment. The defence submits a sentence start point of 6 months as appropriate. I set 2 years as your sentence start point.



D. Mitigating Factors

12. There is no pre-sentence report filed in this case. You are a first time offender. You do not have a previous conviction. I give you 6 months allowance for your clean record. Your sentence remaining balance is 18 months imprisonment.
13. You pleaded guilty at the earliest opportunity given to you. I give you an allowance of 33% to reflect your early guilty plea. Your sentence remaining balance is 12 months.

E. End Sentence

14. Your end sentence is 12 months imprisonment.
15. I assume you are on bail while you are sentenced today.
16. Section 50 of the Penal Code will apply to your situation. Section 50 provides:

"Commencement of sentence

50. If the offender has not been held in custody pending trial and no warrant of arrest or remand is issued against him or her at the time of conviction in the circumstances authorized by the rules of criminal procedure, no sentence of imprisonment may be enforced until the time of appeal against such sentence has expired or the offender earlier elects to begin serving his or her sentence."

17. Your sentence of 12 months imprisonment shall be effective from 8th June 2023 or earlier than that date if you choose to do so (s.50).
18. You have 14 days to appeal this sentence if you are unsatisfied with it. The 14 days starts at the date of this sentence.

DATED at Port Vila, this 25th day of May 2023

BY THE COURT

Hon. Chief Justice V Lunábe

