

PUBLIC PROSECUTOR

v

JOHNNY HORHOR

*Defendant*

**Coram:** Justice Oliver A. Saksak

**Counsel:** Ms Laura Lunabek for Public Prosecutor  
Ms Rollanson Willie for Defendant

**Dates of Plea:** 17<sup>th</sup> July 2024

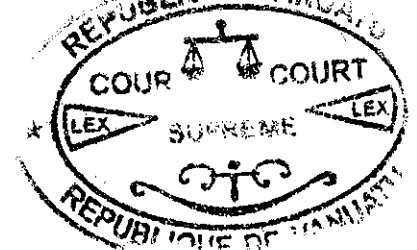
**Date of Sentence:** 23<sup>rd</sup> July 2024

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**SENTENCE**

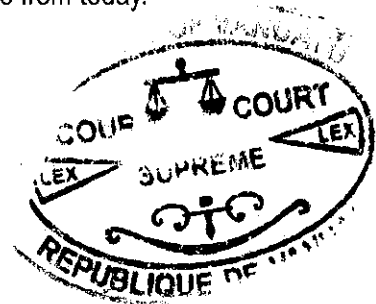
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1. Johnny Horhor pleaded guilty to one charge of intentional assault causing death on 15 July 2024. He is here for sentence today.
2. This is an offence contrary to section 107 ( d) PCA [ Cap 135] which carries the maximum penalty of 14 years imprisonment.
3. The Court convicts and sentences the defendant on his own guilty plea.
4. The defendant, the deceased and others were drinking and dancing on the night of 31 December 2023 being the New Year's Eve. They continued drinking until 9 O'clock pm from about lunch time that day. It was rainy and they all moved into a kitchen house. The defendant played the music while others were dancing. When the music stopped the deceased teased the defendant by telling another person ( Wilfred) that he danced like an animal. The defendant thought the deceased was teasing and swearing at him. He became angry and uttered the words " Yu talem mi danis olsem animal?" Without any answer forthcoming from the deceased the defendant kicked the deceased on his chest once with full force. The defendant kicked the deceased a second time but this time to



the head causing the deceased to fall to the ground and died instantly. They brought him to the village nurse who declared that the victim was dead.

5. This was an unfortunate tragedy. The victim died as a result of the assaults by the defendant to the chest and to the head, the most vital parts of the human body susceptible to death when violent blows are delivered to them as it was in this case.
6. There are no mitigating circumstances. But there were clearly aggravating circumstances such as the unprovoked assaults on the deceased. No opportunity was given to the deceased to answer the question asked to him by the defendant. It was an instantaneous act.
7. In assessing appropriate punishment I have taken note of the cases cited by Prosecutions such as PP v Ierogen [2002] VUCA 34, Lava v PP [ 2020] VUCA 28 and PP v Vira [ 2013] VUCA 26. These cases differ from this case on its facts and circumstances. But the one principle this Court is guided by is that this category of offending will result in a custodial sentence and it will not be suspended, contrary to defence counsel's submissions that it should be so suspended. Defence counsel cited the cases of PP v Rexley [ 2021] VUSC and PP v Iata [ 2021] VUSC 45. These cases however the Prosecution submits that suspension is not warranted in this case.
8. I therefore sentence the defendant to a start sentence of 5 years imprisonment.
9. In mitigation I reduce the sentence being 1/3 of 1 year and 8 months. The balance of the sentence is 2 years and 4 months imprisonment.
10. Next, I take into account his clean past record, his other personal factors and his pre-custodial period of 26 days from 3 to 29 January 2024. I deduct his sentence by a further 4 months leaving his end sentence to be exactly 2 years imprisonment.
11. The defendant has presumably been on bail from 29 January 2024 until PI on 3<sup>rd</sup> July 2024 when the Senior Magistrate extended his remand on bail. That remand is now revoked. That means the defendant's sentence of 2 years becomes of immediate effect as from today.



12. The sentence is however backdated to 3<sup>rd</sup> January 2024 when the defendant was first remanded in custody.
13. The defendant is entitled to apply for parole after having served half of his 2 year sentence.
14. That is the sentence of the Court for the defendant. There is a right of appeal against this sentence within 14 days if he so chooses.

**DATED at Luganville this 23<sup>rd</sup> day of July 2024**

**BY THE COURT**

  
**Hon. OLIVER A SAKSAK**

**Judge**

