

**BETWEEN: PUBLIC PROSECUTOR**

**AND: MICHEL JOHN**  
Defendant

**Coram: Justice D. Aru**

**Counsel: Ms. S. Langon for the Public Prosecutor**  
**Mr. H. Vira for the Defendant**

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## SENTENCE

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### Introduction

1. Michel John was initially charged under an Information with 10 counts. The charges relate to the following offences:
  - domestic violence (counts 1, 3, 5 and 8)
  - intentional assault causing permanent injury (counts 2 and 6)
  - criminal trespass (count 4)
  - intentional assault (count 6)
  - attempted arson (count 9)
  - intentional assault causing temporary injuries (count 10)
2. Counts 1 and later 5 were nollied by the prosecution. Initially the defendant entered guilty pleas to counts 2, 4, 6, 7 and 10. Guilty pleas were later entered on the remaining charges (counts 3, 8 and 9) following amendments to the Information by the Public Prosecutor.
3. The defendant is now for sentencing on his guilty pleas.

### The facts

4. There are four complainants and the main complainant is the defendant's de facto partner who she had co habited with for 6 years and have a child together. The second complainant is her father (Second Complainant), the third complainant is her brother (Third Complainant) and the fourth complainant is her brother's wife (Fourth Complainant).

#### *Count 2*

5. On 7 October 2023, the complainant attended her cousin's birthday party at the Kawenu area, where they had a swim and a barbecue. Around 1.00pm mid-day, the defendant approached them with a piece of wood and machete in his hand. He approached the complainant and without saying a word assaulted her on the head with the piece of wood and she started bleeding heavily with her clothes soaked in blood. He then whipped her on her back. Her vision became blurry



and she felt ringing in her ears as a result of the heavy blow to her head. The defendant then took her to hospital in private vehicle.

*Count 3*

6. Upon arrival at the hospital the defendant warned the complainant by pointing a finger at her and telling her not to tell the doctor that he had assaulted her. She feared him and told the doctor she had fallen and hit her head resulting in injury to her head. After receiving medical attention, the complainant took a bus and returned to her father's house at Manples area.

*Count 4*

7. Around 8.00pm the same night the defendant went to the Second Complainant's house and called the complainant. She was afraid to go outside. The defendant kicked the door open and entered the house. He approached the complainant who called her father who came out and told the defendant to leave.

*Count 6*

8. The defendant was wearing boots and kicked the Second Complainant causing him to fall on the floor. He continued kicking the Second Complainant on the floor resulting in serious injuries to his face with blood flowing through his nose and mouth and loosening some four teeth.

*Count 7*

9. The Third Complainant tried to intervene to stop the defendant but the defendant kicked him in the ribs as well and he fell to the floor. The defendant fled the scene when other family members came to help.

*Count 8*

10. Around 2.00am in the morning on 8 October 2023, the defendant returned and broke into the Second Complainant's room and assaulted him again whilst the Second Complainant was lying on the floor.

*Count 9*

11. The defendant then took a lighter and set fire to a piece of calico hanging on the door saying "tete ba mi bonem haos ia" then he walked away leaving the fire burning. The Third Complainant came and put off the fire.

*Count 10*

12. Around 7.00am that morning, the Fourth Complainant who was pregnant, went to the shop to buy bread carrying her two-year-old baby. On her return the defendant saw her and enquired where the complainant was, she told that defendant the complainant was at home. The defendant slapped her on the back of her head and she fell to the ground with her baby. She got up and left carrying her baby. She sustained some scratches on her left hand and experienced some back pain. She felt some pain at the back of her head as well.

**Sentence start point**

13. Turning to the starting point of sentence, the maximum penalty for domestic violence is a term of imprisonment not exceeding 5 years or a fine no exceeding VT100,000 or to both. For intentional assault with no injuries, the maximum sentence available is a term of imprisonment for 1 year. Where the assault caused permanent injury, the maximum sentence available is a

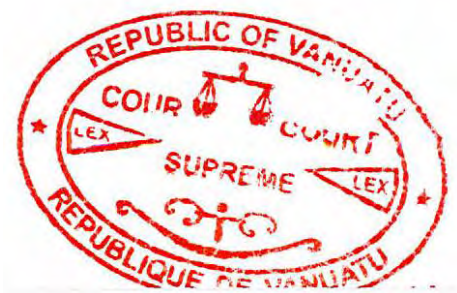


term of imprisonment not exceeding 10 years and if the injury is of a temporary nature the maximum sentence available is a term of imprisonment not exceeding 5 years.

14. For criminal trespass, the maximum penalty available is a term of imprisonment for 1 year and for attempted arson, the maximum sentence is a term of imprisonment not exceeding 10 years.
15. The offending is aggravated by the following factors:-
  - All the complainants suffered bruises to their bodies. The complainant and Second Complainant suffered permanent injuries;
  - A knife and piece of wood were used as weapons;
  - the defendant wore safety boots whilst assaulting the Second and Third Complainants causing severe pain and injuries;
  - There is an element of planning involved;
  - The offending occurred in a home where the victim is meant to feel safe and protected;
  - There is a gross breach of trust;
  - Some of the offending occurred at night and some in the presence of children;
  - the defendant was under the influence of alcohol when he assaulted the second and third complainants.
16. There are no mitigating factors of the offending.
17. Taking the above factors into account, I adopt the following starting point of sentence.
  - intentional assault - 8 months imprisonment;
  - intentional assault causing temporary injury – 1 year imprisonment
  - intentional assault causing permanent injury - 4 years imprisonment
  - attempted arson – 1 year imprisonment
  - domestic violence – 2 years imprisonment
  - criminal trespass – 7 months imprisonment
18. The concurrent sentence start point is 4 years imprisonment.

### **Personal factors**

19. A pre sentence report was filed as directed. The report shows that the defendant is now 28 years old and is a first-time offender. He left school at class 3 and is now employed as a gardener with the Wan Smol Bag in Vila. The income he earns is used to support his family as he has a son with his de facto partner. He intends to travel abroad one day to earn income from which he could build a house for his son.
20. As a first-time offender I reduce the sentence start point by 6 months. A further deduction of 6 months is made taking into account his other personal factors and the two weeks spent in custody.
21. The guilty plea, was not all entered at the first available opportunity therefore the sentence start point will be discounted by 25%



**End sentence**

- 22. The defendant is sentenced to a concurrent end sentence of 2 years and 3 months imprisonment. The sentence is suspended for a period of 3 years. Should the defendant re offend during this time the sentence will be reactivated to be served in custody.
- 23. In addition, the defendant will be under a supervision order to undertake rehabilitation programmes identified by his probation officer relating to his offending. He will also perform 200 hours of community work.
- 24. The defendant has 14 days to appeal if he disagrees with the decision.

**DATED at Port Vila this 11th day of September, 2024**

**BY THE COURT**

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**Dudley Aru**  
**Judge**

