

IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU  
*(Criminal Jurisdiction)*

Criminal  
Case No. 24/1208 SC/CRML

**PUBLIC PROSECUTOR**

**v**

**THOMSON MAVUN**

*Date of Plea:* 17 June 2024  
*Date of Sentence:* 13 September 2024  
*Before:* Justice M A MacKenzie  
*Counsel:* Mr L Young for the Public Prosecutor  
Mrs K Karu (Holding papers for Ms B Taleo) for the Defendant

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**SENTENCE**

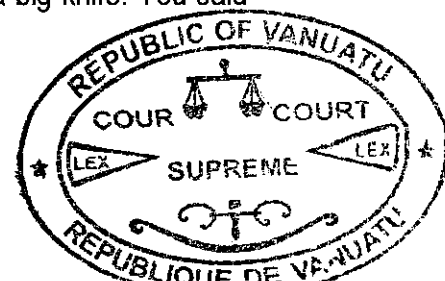
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**Introduction**

1. Mr Thomson Mavun, you appear for sentence having pleaded guilty to a charge of intentional homicide, without pre-meditation. The maximum sentence for this offending is a term of 20 years imprisonment.

**The facts**

2. You and the deceased, Helenda Karae were in a relationship and lived together. You were together for 8 years.
3. On 21 November 2023, your brother heard Ms Karae crying. He became aware that the two of you had been fighting inside your home. The door was locked. He called out to you to stop assaulting Ms Karae.
4. The next morning, 22 November, Ms Karae called out from your house. Your brother responded and saw Ms Karae on the ground bleeding. You had a big knife. You said



you would stop assaulting her. However, about an hour later, Ms Karae was deceased. Attempts by your brother to revive her were unsuccessful.

5. Under police caution you admitted arguing with your partner because you were jealous and suspicious that she was having affairs with other men. You acknowledged assaulting her with the knife to her head, back leg and hand. Ms Karae begged you to stop assaulting her, but you did not because you were angry. You also used an iron rake to assault her to the point that Ms Karae fell to the ground.
6. According to the medical report, the direct cause of death was blunt force injuries and incised wounds to her head and upper limbs.

### **Purposes and principles of sentencing**

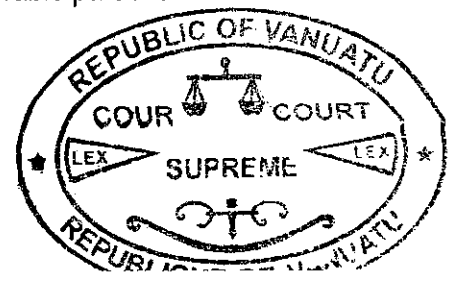
7. The sentence I impose must hold you accountable and must denounce and deter your conduct. Domestic violence is not acceptable. Here it led to the loss of a life. Deterrence must then be to the fore. The sentence should ensure you take responsibility for your actions and help you to rehabilitate. It must also be generally consistent.

### **Approach to sentence**

8. Sentencing involves 2 separate steps; *Jimmy Philip v Public Prosecutor* [2020] VUCA 40, which applied *Moses v R* [2020] NZCA 296.

### **Starting point**

9. The first step is to set a starting point to reflect the aggravating and mitigating features of the offending, and with reference to the maximum penalty for the offence.
10. The aggravating factors here are;
  - a. The unprovoked and sustained nature of the attack.
  - b. The serious breach of trust.
  - c. The offending took place in the home where Ms Karae was entitled to feel safe. When your brother checked the day before, he found that the house was locked.
  - d. The use of weapons- you used both a knife and a rake to inflict harm on Ms Karae. The use of a knife is particularly serious as it is capable of inflicting lethal harm.
  - e. The offending involved attacks to the head, the most vulnerable part of the human anatomy.

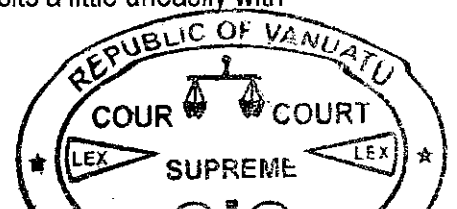


f. You ignored Ms Karae's plea to stop assaulting her

11. There are no mitigating features of the offending itself.
12. Counsel have both cited cases to assist the Court with setting an appropriate starting point. The prosecutor submits there should be a starting point of 15 years imprisonment. In the written submissions, Ms Taleo submits that the appropriate starting point is 10-12 years imprisonment.
13. Of the cases cited by both counsel, *Public Prosecutor v Molu* [2021] VUSC 232 and *Public Prosecutor v Harry* [2022] VUSC 62 are of the most assistance, because they involve intentional homicide in the context of a relationship and both involved the use of a weapon, as with the present case.
14. In *Molu*, Mr Molu admitted he had caused his de facto partner's death by hitting her to the head numerous times with a piece of wood. He said that her infidelities towards him caused him to lose his temper. After hitting her, Mr Molu left her body in some bushes. The starting point adopted was 15 years imprisonment.
15. In *Harry*, Mr Harry lost control of himself after drinking alcohol. He assaulted his partner. She hid from him. Mr Harry eventually located her, picked up a wooden pole and stuck her with the pole to her left eye. She collapsed, unconscious. The victim died in hospital the following day. The starting point adopted was 12 years 6 months imprisonment.
16. The offending in the present case is more serious than *Harry* and is at least as serious as the offending in *Molu*. The present case is more serious than *Harry* because of the sustained nature of the assault and the nature and use of two weapons, particularly the knife. It is at least as serious as *Molu*, given that both cases involve strikes to the head with a weapon. Arguably, the present case is slightly more serious than *Molu*, given the type of weapons used.
17. Taking into account the aggravating factors I have referred to, and the starting point adopted in *Molu*, the starting point I adopt is 15 years imprisonment.

### **Guilty plea and personal factors**

18. I accept you pleaded guilty at an early opportunity. However, the evidence suggests you had little option but to plead guilty. The case against you was overwhelming. I reduce the sentence start point by 25% for the guilty plea. That is a reduction of 3 years 9 months.
19. You are now aged 26 years and a first offender. You co operated with police. There is assessed to be an average chance of your reoffending. The pre sentence report notes that you are very remorseful and shocked by your actions. That sits a little uneasily with



the minimisation of your actions. You say that the reason you lost control was because of your belief about your partner's infidelity. Even if true, your reaction was grossly disproportionate and led to the taking of a young woman's life. There was apparently a reconciliation with Ms Karae's father, and a custom fine of a pig, a fowl, 2 bundles of taro and a mat. This could not be confirmed.

20. As you are a first offender, cooperated with police and have some remorse, there is a further discount of 9 months from the starting point.
21. You spent 6 months in custody from 24 November 2023 to 24 May 2024, an effective sentence of 12 months imprisonment. The sentence is to be further reduced by 12 months for this factor.

### End Sentence

22. Taking the starting point and the deductions just discussed into account, the end sentence is 9 years 6 months imprisonment.
23. There is no real suggestion by your counsel that the sentence should be suspended. The sentence will not be suspended. Under s57 of the Penal Code, I must take into account the circumstances, the nature of the offending and your character. While you have no prior convictions, pleaded guilty at the first reasonable opportunity, and show some remorse, this was very serious offending. You lost control and took the life of your partner, a young woman in a brutal way. A domestic homicide such as this requires a stern response. As the Court of Appeal said in *Pakoa v Public Prosecutor* [2008] VUCA 7, "unfaithfulness by a spouse (if it were true) is never an excuse let alone an explanation for a brutal killing".
24. The sentence of 9 years 6 months imprisonment is to start immediately. While you have been on bail, you were remanded in custody for 6 months. Section 50 of the Penal Code does not then apply; *Jack v Public Prosecutor* [2024] VUCA 39.
25. You have 14 days to appeal against the sentence.

**DATED at Port Vila this 13th day of September 2024  
BY THE COURT**

Justice M A MacKenzie

