

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

**Criminal**  
**Case No. 25/355 SC/CRML**

**PUBLIC PROSECUTOR**

**v**

**LUI ETAP**

*Date of Plea:* 21<sup>st</sup> March 2025  
*Before:* Justice Josaia Naigulevu  
*Counsels:* Acting Public Prosecutor – Mr. Christopher Shem  
Public Solicitor – Mr. Harrison Rantes

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**SENTENCE**

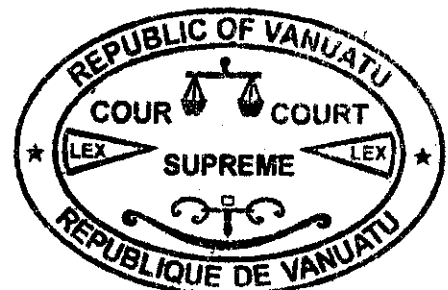
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**Introduction**

1. Mr. Lui Etap, you appear for sentence today having entered a guilty plea and accepted the summary of facts presented by the prosecution, relating to one count of unintentional harm contrary to section 108 (c) of the Penal Code.
2. You were duly convicted on your plea.

**Facts**

3. On the morning of the 30<sup>th</sup> September 2025, you drove your Toyota AWD land cruiser from your residence in North Tanna, and headed towards Lenakel. You were not alone. Several others accompanied you and sat in the tray of your truck, amongst them Amos Lui the deceased.
4. After passing the Entangsiel Bridge, you ascended a hill. You were driving uphill when your truck suddenly stopped, as its engine seized. You lost control of the vehicle as it slid down the slope and off the main road.



5. In an effort to hastily alight from your truck, the deceased jumped out and got trapped between the vehicle and a rock behind the truck. He was struck by your vehicle. It eventually led to his death on the 6<sup>th</sup> October 2024.

### **Statutory Sentence**

6. The maximum sentence of the offence of unintentional harm contrary to section 108 (a) of the Penal Code is a term of 5 years imprisonment.

### **Aggravating Factors**

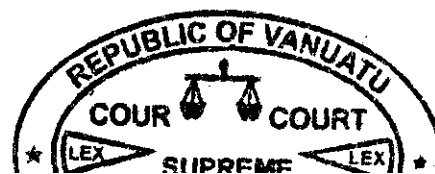
7. The following factors constitute the aggravating factors in the present case:
  - a) Failing to maintain a vehicle in a sound mechanical and roadworthy condition;
  - b) Failing to exercise due care and attention;
  - c) Failing to keep a proper look out for your passengers;
  - d) Death was the outcome.

### **Sentencing purpose and Guideline**

8. There are several principles that guide the sentence to be imposed on you. They include the proposition that you must be held accountable and must take responsibility for your action. Additionally, your action is the kind that is denounced by society, and that similar future acts by you and others must be deterred.
9. Equally important is that you must be given ample opportunity to rehabilitate.
10. The approach taken in the present case follows the guidance given by the Court of Appeal in the case *Philip v Public Prosecutor* [2020] VUCA 40.

### **Starting Point**

11. In assessing the appropriate starting point, I have taken into account the statutory maximum sentence, as well as the aggravating and mitigating factors of the offending.
12. I have considered the submissions made by counsels, as well as the case authorities they referred to for the Court's consideration. The Court has noted two comparable cases: *Public Prosecutor v Wilfred* [2019] VUSC 29 and *Public Prosecutor v Iauko*



[2024] VUSC. The charges and the circumstances were similar to the present case. In those two cases, the Court's adopted a starting point of 3 years.

13. This Court adopts a starting point of 3 years also.

### **Guilty Plea**

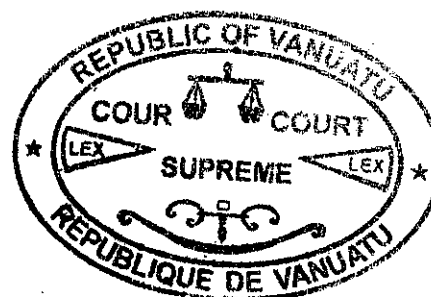
14. You entered a plea of guilty in this Court at the earliest possible opportunity. As a result, you are entitled to a discount of 12 months. This period is deducted from the starting point of 3 years.

### **Mitigating and Personal Factors**

15. You are a widower aged sixty years old and have taken care of your three children as a single parent, following your wife's untimely demise about five years ago.
16. You have never attended school, and can neither read nor write. However, you own cattle and a transport business. You do gardening also in order to feed your family.
17. Your chief Jimy Kilapin acknowledges your support and contribution towards community projects. The victim's family had accepted your custom gifts as a demonstration of remorse.
18. You are a first offender.
19. These factors reduce your sentence by a further six months.

### **End Sentence**

20. I have taken into consideration all these matters and impose on you an end sentence of eighteen months of imprisonment.
21. Your counsel has urged me to suspend the sentence of imprisonment. I will do so. It will be suspended for a period of twelve months. In addition, you will undertake a total of fifty hours of community work, and will undergo a mandatory drivers test to be arranged by a competent police or correctional officer in the next four weeks. Your vehicle, the Toyota Land cruiser registered number 11850 will undergo a compulsory roadworthy test by the police within the next four weeks also
22. You have 14 days to appeal this sentence.



DATED at Port Vila this 20<sup>th</sup> day of June 2025  
BY THE COURT

