

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

Criminal
Case No. 23/1386 SC/CRML

BETWEEN: PUBLIC PROSECUTOR

AND: BRUCE NAPIT
Defendant

Date of Plea: 21 July 2025
Date of Sentence: 5 September 2025
Before: Justice M A MacKenzie
Counsel: Ms R Siri for the Public Solicitor
Mr E Macreveth for the Defendant

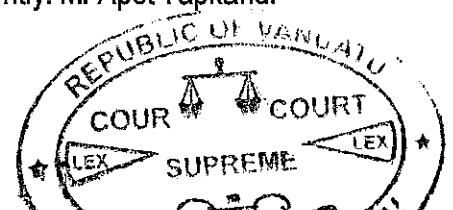
SENTENCE

Introduction

1. Mr Napit, you appear for sentence having pleaded guilty to a charge of kidnapping. The maximum penalty for kidnapping is 10 years imprisonment.
2. Your plea was much delayed, as you were working overseas as part of the RSE scheme. Your co-offenders were sentenced on 13 October 2023: *Public Prosecutor v Tamendal* [2023] VUSC 229.

The Facts

3. On 29 October 2021, one of the victim's Moise Tanabit parked a grey Toyota Hilux truck (owned by Noel Tanabit) at Lakatoro, Malekula. The other victim, Jean Noel Ley was sitting on the back of the truck. Mr Tanabit was locking the truck when your co-defendant Mr Tamendal grabbed his right hand. As he turned around, he saw that you and the other defendants had surrounded him. Mr Tamendal told him to hand over the vehicle keys and his mobile phone. He did. Then Mr Tamendal pulled Mr Tanabit to the back of the truck and you, and the other Defendants also climbed onto the truck. Mr Tanabit tried to escape but he could not as Mr Tamendal held onto him tightly. Mr Apet Tapkandi



got the vehicle keys and started the truck. At that point, Mr Ley tried to leave the vehicle, but you and the other Defendants blocked him from escaping.

4. Mr Tanabit's phone was returned to him, and he called his chief to come and resolve the dispute between them. You and the other Defendants kept the victims at a house overnight. You hoped that Noel Tanabit would come to Mae village so that a meeting could be held to discuss a long-standing dispute over land between the Defendants and the Tanabit family which culminated in Mr Tanabit and another Tanabit Family member stoning member of the Tapkandi family earlier in the day on 29 October 2021. This is the wider context to the offending. The next morning, a Mae village chief came to the victims' rescue and took them to the Lakatoro Police station. The Defendants held onto the truck until 2 November 2021.

Sentencing purposes/principles

5. The sentence I impose must hold you accountable and must denounce and deter your conduct. The sentence should ensure you take responsibility for your actions and help you to rehabilitate. It must also be generally consistent.

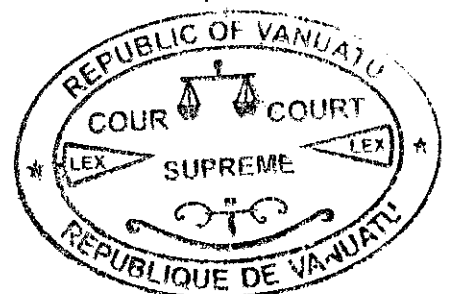
Approach to sentence

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

Starting point

7. The first step is to set a starting point, with reference to the maximum penalty and the aggravating and mitigating features of the offending.
8. The aggravating factors include:¹
 - a. Premeditation on the part of you and the other Defendants;
 - b. The fear caused to both victims; and
 - c. You took matters into your own hands to resolve a dispute instead of following up with the Police about the threats made by the victims' family. There is no place for vigilante behaviour in a civilised society.
9. The mitigating aspect of this offending is that you and your co-defendants were provoked by members of the victims' family. There was a long dispute over land, which led to alleged criminal behaviour by the victims' family. Reports were made to police, but no action was taken.

¹ I see no reason to depart from the aggravating factors as assessed by Trief J



10. In sentencing the co-defendants, Trief J adopted a starting point of 12 months imprisonment. There is nothing to distinguish your role from that of the co-defendants. Therefore, I adopt a sentence start point of 12 months imprisonment.

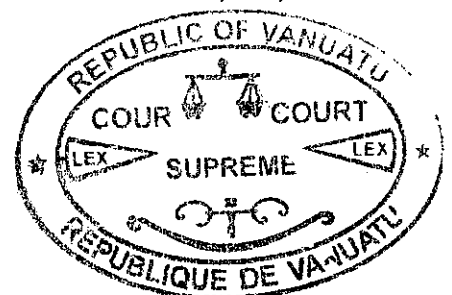
Guilty plea and personal factors

11. Your co-defendants entered prompt guilty pleas on 9 October 2023. You were not present to enter a plea in the Supreme Court, following committal in the Magistrate's Court. An open arrest warrant was issued by Trief J on 13 October 2023. Your co-offenders were sentenced on 13 October 2023, and their sentences were reduced by one third for plea. The resources of counsel and the Court were expended in attempting to have you appear to enter a plea. There were Court appearances in both 2024 and 2025 for you to appear and enter a plea. You entered a plea of guilty on 21 July 2025, nearly 2 years after your co-defendants were sentenced. I do not consider that you are entitled to the full one third reduction for the guilty plea. There have been warrants for your arrest, and while you may have been working overseas during that period, you must have known about the case, given that your co-defendants had appeared before the Court and were sentenced. Allowing a full one third reduction here would devalue the early guilty pleas entered by your co-defendants. The sentence is reduced by 20 percent for plea, given the circumstances I have outlined. That reduces the sentence by 2 ½ months.
12. You are aged 26 years and are from Malekula. You are a first offender, are married and have a young child. You are well regarded in your community. You are remorseful and have learnt your lesson. Your main source of income is selling kava and copra. You have also worked overseas under the RSE scheme. You took part in a kava ceremony with the victims early on, by way of reconciliation. The sentence is reduced by 3 months for these factors, consistent with the reduction applied to your co-defendants. This equates to 25 percent. I would not have reduced the sentence by such a large amount, but there is no reason to distinguish between you and your co-defendants.

End Sentence

13. The end sentence is 6 ½ months imprisonment.
14. There is a discretion to suspend the sentence. Pursuant to s 57, I must take into account the circumstances, the nature of the offending and your character. When exercising the discretion under s 57, the Court of Appeal in *Public Prosecutor v Garae* [2025] VUCA 37² recently affirmed the approach to the exercise of the discretion. A sentencing Judge is to take into account all aggravating and mitigating factors relevant to the discretion. This requires a balancing exercise of the factors against, and the factors, for, suspension.

² At paragraph 28. See also *Malau v Public Prosecutor* [2021] VUCA 48.



15. The first and obvious point is that the sentences of your co-defendants were suspended. The offending was serious. There is no place for vigilante or retributive justice. That counts against suspension of the sentence. On the other hand, the lack of prior convictions, the mitigating aspect of the offending, the reconciliation and remorse count in favour of suspension of the sentence. Weighing and balancing these factors, I am prepared to suspend the sentences for 12 months. That is consistent with the sentences imposed on the co-defendants. You are warned that if you are convicted of any offence during that 12 month period you will be taken into custody and serve this sentence of imprisonment, as well as the penalty imposed for the further offending.
16. In addition, you are sentenced to 60 hours community work.
17. You have 14 days to appeal against the sentence.

**DATED at Port Vila this 5th day of September 2025
BY THE COURT**

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Justice M A MacKenzie

