

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

Criminal  
Case No. 24/3804 SC/CRML

PUBLIC PROSECUTOR

v

OBED HIWA

Date of Plea: 10<sup>th</sup> March 2025  
Before: Justice Josaia Naigulevu  
Counsels: Acting Public Prosecutor – Mr. Christopher Shem  
Public Solicitor – Mr. Harrison Rantes

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SENTENCE

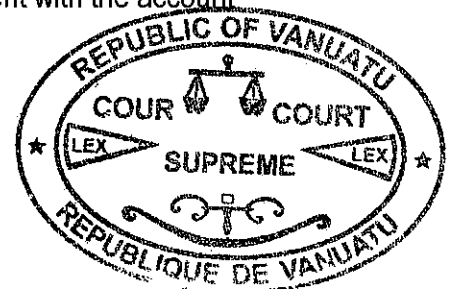
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**Introduction**

1. Obed Hiwa, you appear for sentence having entered a guilty plea and accepted the summary of facts presented by the prosecution relating to a count of domestic violence contrary to sections 4(1) and 10(1) of the Family Protection Act.
2. You were duly convicted on your plea.

**Facts**

3. On the early hours of the 5<sup>th</sup> September 2024, you entered the house of the complainant Alvin Jimmy and called out to her. She came out. You then assaulted her on the face and head region with your hands. You then directed her to follow you to her brother's house.
4. The complainant was examined by a nurse later on the same morning. A medical report was produced as the result of the examination. It disclosed that she sustained a swollen face, swollen eyes, broken left upper lip and general body pain.
5. The findings in the report, opined that the symptoms were consistent with the account given by the complainant of punches delivered by you.



## Sentencing Guidelines

6. 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.
7. Equally important is that you must be given an opportunity to rehabilitate and reintegrate.
8. 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

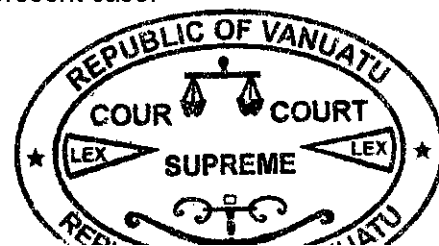
9. In assessing the appropriate starting point, I have taken into account the statutory maximum sentence, as well as the aggravating and mitigating factors of the offending.
10. The maximum penalty for the offence of domestic violence is 5 years imprisonment and/or fine not exceeding VT100,000.
11. I have considered the authorities referred to me by your counsel and the prosecutor. I regard them as having minimal assistance. In the present case, the range of aggravating factors are more extensive, and so was the nature of the injuries sustained by the complainant, albeit of temporary nature only.
12. I adopt a global starting point of 18 months.

## Guilty Plea

13. You pleaded guilty to this Court at the earliest opportunity. As the result, you are entitled to a discount of four months, a period to be deducted from the starting point.
14. Mr. Obed, I have decided not to grant you the full benefit of a third deduction in view of the fact that there was overwhelming evidence against you and that the complainant was not entirely spared the experience of giving evidence in relation to another count, during which she testified about the assault perpetrated by you.

## Aggravating Factors

15. The following circumstances constitute aggravating factors in the present case:



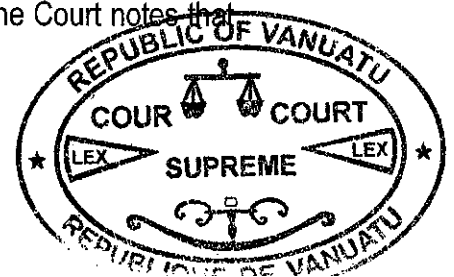
- a) a serious breach of trust by a person considered to be the father of the complainant. You had adopted her as a daughter;
- b) the offending took place immediately outside the victim's home, a place where she was entitled to feel safe;
- c) the assault targeted the complainant's face and head region, the most vulnerable part of the body;
- d) the traumatic experience of being assaulted on the face by an adult male would have resulted in psychological and emotional harm.

### **Mitigating and Personal Factors**

16. Mr. Obed, you are 60 years old, are married and live with your wife, five children and three grandchildren. You attended school until you reached grade six and often undertake community work.
17. You are a first-time offender, as you have no previous conviction. The Court takes this into account
18. These factors reduce your sentence by a further 5 months.

### **End Sentence**

19. I have taken into account all these matters and impose an end sentence of 9 months.
20. The Court is informed that you have been in continuous custody since the 13<sup>th</sup> September 2024, effectively six months ago. This period is also taken into account, and means that your sentence is reduced further by six months. That leaves 3 months remaining from starting point.
21. I take into account the circumstances, the nature of your offending and have decided to suspend the remaining 3 months pursuant to section 57 of the Penal Code. You told the correctional officer recording your pre-sentence report that the complainant was having an affair with another man and did not respect her partner. You therefore decided to exercise discipline over your adopted daughter, to express your trepidation and distress.
22. That may have been so, but by assaulting her in the manner that you did, you exceeded the bounds of acceptable conduct. The Court hopes that you have learnt that such action is not condoned.
23. You say that you now remorseful and am sorry for your action. The Court notes that too.



24. The suspending of the remaining 3 months of your sentence will be for the period of the next 12 months. You are warned against committing another offence over that period.
25. This means that you will be released from custody today.
26. You have 14 days to appeal this sentence

DATED at Port Vila this 21<sup>th</sup> day of March 2025  
BY THE COURT

