

IN THE HIGH COURT OF FIJI

AT LABASA

CRIMINAL JURISDICTION

CRIMINAL CASE NO: HAC 038 OF 2022LAB

STATE

V

IOTU WALTER LANYON

Counsels : Ms. E. Thaggard for State

Ms. R. Raj for Accused

Hearings : 15 and 16 August, 2022

Sentence : 22 August, 2022

SENTENCE

1. On 15 August 2022, in the presence of his counsel, the following information was read over and explained to the accused:

COUNT ONE

Statement of Offence

ACT WITH INTENT TO CAUSE GRIEVOUS HARM: Contrary to Section 255 (a) of the Crimes Act 2009.

Particulars of Offence

IOTU WALTER LANYON, on the 30th day of March, 2022 at Savusavu, in the Northern Division, with the intent to cause grievous harm to **BEDELIA SHEPHERD**, unlawfully wounded the said **BEDELIA SHEPHERD** with a spade.

2. He said, he understood the charge and pleaded guilty to the same. The case was then adjourned to the next day, 16th August 2022, to enable the prosecution to present the summary of facts to court.
3. On 16 August 2022, the prosecutor presented her summary of facts to the court. Briefly, they were as follows. The complainant was Ms. Bedelia Shepherd of Namara Estate of Savusavu. She was 56 years old and a Health and Wellness Coach. Adjoining the complainant's Estate was Naqere Estate, owned by Ms. Mary Field, the complainant's friend. On the day of the incident, 30 March 2022, Ms. Field was away overseas. The accused was 48 years old. His wife was the caretaker at Ms. Field's Estate. She and the accused resided at Ms. Field's Estate, with their two children. The accused was the gardener at the Estate, and generally cleans the compound.
4. On 30 March 2022, Ms. Field asked the complainant to check on her residence. The complainant, accompanied by one Ms. Mereani Tanoa, 42 years old, domestic worker of Namara Estate, went to check on her friend's residence. While at her friend's compound, the complainant approached the accused and asked him why he was required to attend court that day. At the time, the accused was holding a gardening spade. He was not happy about the complainant's questions regard his affair. He growled at the complainant. He later lifted the spade and struck the complainant's head and hands with the same repeatedly. The complainant suffered serious multiple injuries to the head and hands, as shown in her photos and medical reports, attached as Exhibit "A" and "B" in the summary of facts. Later the matter was reported to police. The complainant was medically examined at Savusavu Hospital. She later went to Australian and was treated at St. Andrews War Memorial Hospital.

5. Defence Counsel, on behalf of the accused, admitted the above summary of facts, including the particulars of the offence, in the information. As a result of the above admission, the court found the accused guilty as charged and convicted him accordingly.
6. The prosecution said the accused was a first offender. His antecedent report stated he was a farmer, married with 2 children. He reached Form 3 level of education at Rabi High School. He is a Christian by religion. The victim impact report was also presented by the prosecution. The accused's offending had seriously affected the psychological and emotional well-being of the complainant. She is now more fearful and frightened easily. Her left hand had suffered four big breaks, and she has metal plates and screws in her left hand, and she's uncertain whether or not her left hand would properly function again. She had to spend more than AUS\$10,000 to get medically treated in Australia, and she's on constant medication at present. Her medical conditions had affected her ability to work. The defence did not challenge the complainant's victim impact report.
7. The court had taken note of your written plea in mitigation, submitted by your counsel, I note you are now 49 years old, married with 2 children, aged 22 and 6 years old. You are the sole bread winner, a first offender and you pleaded guilty 2 months 2 days after first call in the High Court.
8. The offence of "Act intended to cause grievous harm", contrary to section 255 (a) of the Crimes Act 2009, carried a maximum penalty of life imprisonment. Parliament views the offence as a serious matter, thus the prescribed maximum penalty mentioned above. In **State v Maba Mokubula**, Criminal Appeal No. HAA 0052 of 2003S, High Court Suva (22 December 2003), the tariff for "Acts intended to cause grievous harm" had been set between 6 months to 5 years imprisonment, but where a weapon, in whatever form is used, the tariff is a sentence between 2 to 5 years imprisonment. **State v Maba Mokubula** (supra) had stood the test of time, and this court will adopt the above tariff. The final sentence obviously will depend on the aggravating and mitigating factors.
9. The aggravating factors in this case were as follows. The complainant suffered serious injuries to her left hand, which is now filled with metal plates and screws. The photos of her injuries as submitted in the summary of facts spoke volumes about the injuries she suffered. The complainant was vulnerable at the time. There was absolutely no need to use a spade violently to resolve your problem. The accused was lucky not to be facing a murder charge, given the

nature of the attack. You will have to learn to control your anger peacefully with the imposition of a custodial sentence, as a warning to you.

10. The mitigating factors were as follows. At the age of 49 years, this was your first offence. You pleaded guilty to the offence 2 months 2 days after first call in the High Court. You had been remanded in custody for 5 days.
11. I start with a sentence of 3 years imprisonment. I add 2 years for the aggravating factors, making a total of 5 years imprisonment. For time already served while remanded in custody, I deduct 1 week from the 5 years, leaving a balance of 4 years 51 weeks. For being a first offender, I deduct another 51 weeks, leaving a balance of 4 years. For pleading guilty early, I deduct another 1 year, leaving a balance of 3 years imprisonment.
12. Mr. Iotu Walter Lanyon, for unlawfully hitting Ms. Bedelia Shepherd repeatedly with a spade and thereby causing her grievous harm, on 30 March 2022, at Savusavu in the Northern Division, I sentence you to 3 years imprisonment, with a non-parole period of 2 years imprisonment, effective forthwith.
13. Pursuant to section 4 (1) of the Sentencing and Penalties Act 2009, the above sentence is designed to punish you in a manner which is just in all the circumstances, to protect the community from people like you, to deter other would be offenders and to signify that the court and community denounce what you did to Ms. Bedelia Shepherd on 30 March 2022, when you repeatedly hit her with a spade, thereby causing her grievous harm.
14. You have 30 days to appeal to the Court of Appeal.




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JUDGE

Solicitor for the State : **Office of the Director of Public Prosecution, Labasa**
Solicitor for the Accused : **Legal Aid Commission, Labasa**