

PUBLIC PROSECUTOR

V

PEDRO JACK

*Date of Sentence: 30<sup>th</sup> September, 2020 at 2:30PM*

*Before: FSam*

*In Attendance: Mr Sahe\_B for the State*

*Mr Livo\_B for the Defence*

*Copy: The State Prosecution, The Public Solicitor, The Probation Unit of the  
Corrections Department, Vila.*

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SENTENCE

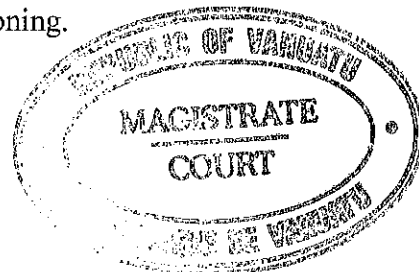
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**Introduction**

1. Mr Jack pleaded guilty to two Counts of Domestic Violence and Unlawful entering a dwelling house accordingly.

**Undisputed Facts**

2. The Defendant's brother Edward Iavilu, had lodged a complaint to the police on the 27<sup>th</sup> of December, 2019, that Mr Jack, while under the influence of alcohol, had damaged the door to Mr Iavilu's house in order to look for a music box he wanted to listen to, while drinking. There was no one in the house at that time, but the Defendant's aunty, who was the main eye witnesses in this case, saw the defendant walking up to the door, damaging it and going into the house. This incident was reported to the complainant who later reported to the Police, with the defendant being arrested and brought in for questioning.



**The Law**

3. Section 4(1)(f) and 10 of the Family Protection Act states:

***“4 Meaning of domestic violence***

*(1) A person commits an act of domestic violence if he or she intentionally does any of the following acts against a member of his or her family:*

*(f) damages or causes damage to the family member’s property; ...*

***10 Domestic Violence Offence***

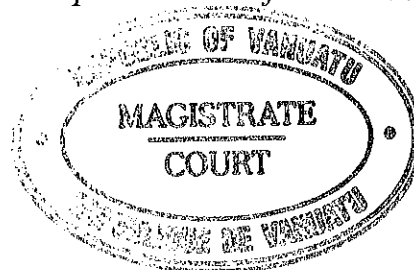
*(2) A person who commits an act of domestic violence is guilty of an offence punishable on conviction by a term of imprisonment not exceeding 5 years or a fine not exceeding 100,000Vatu, or both.”*

4. Section 143 of the Penal Code Act states:

***“143. Unlawfully entering dwelling house***

*(1) No person shall enter or be in any house, building, tent, vessel or other place with intent to commit an offence therein.”*

*Penalty: Imprisonment for 20 years where the place is used for human habitation.*



**Submissions:**

5. This Court heard submissions from both Mr Sahe and Mr Livo, in guiding this Court towards an appropriate sentence for Mr Jack.

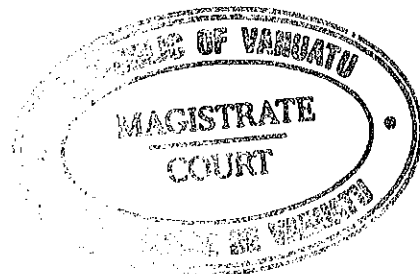
6. I considered the following as aggravating factors; that the offences of domestic violence and unlawful entry are very serious offences, as reflected in their maximum penalties, that Mr Jack has a prior conviction of an offence of intentional assault while under the influence of alcohol, of which he was convicted in 2017 and sentenced to a Fine, that he has not learned a lesson, and yet resorted to committing the offences in the present case. It seems he has an uncontrollable behavior while he is under the influence of alcohol because in the present case, he was also reported to have being under the influence of alcohol as well, and that he saw that his complainant brother's house was empty at that time, yet he walked up the door, damaged it and got inside, showing he had no respect for his brother or his property.

7. The Mitigating factors considered and accepted by this court are that the Defendant Mr Jack, has performed a custom reconciliation ceremony to his complainant brother, where an exchange of goods including mats and VT1000 was made, and that he is currently residing peaceably in the same area at Club Hippique where his complainant brother is also residing, and has not posed any threats to the family to date, that he is a young man of 27 years and though unemployed at the moment, he does kava sales to support himself and his parents financially.

8. I heard submissions from both counsels in respect of sentencing for this defendant, with Mr Sahe laying out three options for this court to consider, and Mr Livo's submission in reply.

**Verdict on Guilty Plea**

9. And having considered all relevant factors and circumstances in respect of the Defendant Mr Jack and his offending, I am satisfied that the elements of both Counts one (1) of domestic violence and Count two (2) of Unlawful entering a dwelling house are met and I convict him of the two counts accordingly.



**Sentence**

10. In respect of sentencing, I take into consideration the reconciliation performed by Mr Jack and the fact that he is allowed back into his community and currently residing within the same vicinity as his complainant brother, and I consider a sentence of community work the appropriate sentence for this defendant. This sentence will serve as deterrence to Mr Jack and likeminded offenders not to take the law into their own hands and to respect their neighbors and their properties. It also serves to give him a chance to reform or rehabilitate himself.

11. And I make the following orders:

**Orders:**

- a) That Mr Jack is to undertake 50 hours of community work for each count respectively.
  - b) That Mr Jack must report to his probation officer within 72 hours from date of this sentence.
12. Mr Jack has 14 days to appeal this sentence if he is not happy with it.

**DATED at Port Vila, this 30<sup>th</sup> day of September 2020.**

**BY THE COURT**



**Fsam**

**Magistrate**

