

**BETWEEN: Public Prosecutor**

**AND: Guaneto Metsan**  
**Defendant**

**Date of Plea:** 25<sup>th</sup> May 2021  
**Date of Sentence:** 25<sup>th</sup> May 2021  
**Coram:** Trevor NAIEU  
**Appearances:** Terry Toas for Public Prosecutor  
Defendant in Person

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**SENTENCE**

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**A. Introduction**

1. Mr Guaneto Metsan pleaded guilty ("Yes hemi tru") to the offence of domestic violence.

**B. Facts**

2. The victim who lodges the complaint against Mr Metsan is his wife.
3. On the 30 day of April 2021, Mr Metsan forcefully request and authorizes his wife to give him the money savings they both have worked hard to save specifically to buy cement to build them a family home. Mr Metsan's wife was reluctant to give him the money but because he was very upset at her, she gave him all the money. Mr Metsan then went away and used up all the money to his own enjoyment and interests.
4. Thereafter, Mr Metsan's wife regularly ask for the money and even telling him that they needed the money to buy the cement for their family home and that she is 2



months pregnant so they will need the money but Mr Metsan would get very disappointed at her and even on many occasions telling her that they must do something to kill their unborn child.

5. Due to the fact that Mr Metsan regularly gets upsets at his wife and told her they must do something to kill their unborn child, his wife always keeps her distance away from him and even on many occasions, would run away to a safe location for her safety and that of their unborn child. Mr Metsan also would not care to support his wife on household welfare matters and not care to support with their son school fees and his other needs and his wife but his own.
6. Mr Metsan was recently convicted with a suspended sentence by this Court for the offence of domestic violence and was also previously subjected to a family protection order whereby his wife was the applicant on 2 separate occasions.

**C. Conviction**

7. Conviction is hereby entered against Mr Metsan for the offending of domestic violence upon satisfaction that all the elements of the offence were met.

**D. Sentence start point**

8. The sentence start point is arrived at after having considered the maximum sentence available for the offending and the careful assessment of the mitigating and aggravating factors of the offending.
9. The maximum penalty for domestic violence is a term of imprisonment not exceeding 5 years or a fine not exceeding 100,000Vatu or both.
10. There are no mitigating factors to the offending.
11. The aggravating factor are as follow;
  - Repeated offender.
  - Breach of trust, love and care.
  - Intended threats to kill an unborn child placing the mother under great fear for her life safety and that of her unborn child.
12. The start point I set for the offending is 18 months imprisonment.

**E. Personal Factors**

13. The following are mitigating factors personal to Mr Metsan;



- Mr Metsan pleaded guilty at the earliest opportunity given saving the Courts time and expense in conducting a trial and avoiding the embarrassment to his wife the victim to appear and give evidence. This also shows an acceptance of wrong doing and an indication of remorse. Mr Metsan's early guilty plea awarded him a one third deduction to his sentence.

14. The following are aggravating factors personal to Mr Metsan;

- Mr Metsan is a re-offender. The defendant was convicted for domestic violence on the 10 March 2021 and was given a 6 months' imprisonment sentence that was suspended for 1 year and was ordered to perform 200 hours community service.

15. For Mr Metsan's mitigating personal factors I reduce 6 Months.

#### **F. End Sentence**

16. The end sentence appropriate for Mr Metsan's offending will be 12 months imprisonment.

#### **G. Suspension**

17. The end sentence imposed can be suspended wholly or in part according to certain circumstances.

18. In the case of Public Prosecutor V Geoffrey Markro [2017] VUCA, the Court of Appeal stated that;

*"...22. When suspending a sentence of imprisonment, a sentencing judge must take into account the following three (3) characteristics:*

*(i) The circumstances of the case; and*

*(ii) The particular nature of the crime; and*

*(iii) The character of the offender..."*

19. Although the above case involves are totally different offending, the principles or characteristics established can be applied to any offending should a suspended sentence is to be considered

20. Applying the above characteristics, it is inappropriate to suspend all or part of the sentence due to the fact that the defendant is a re-offender of the same offending who



was recently convicted just few weeks ago. The intended character of the defendant in failing to observe a good character shows his inability to rehabilitate and learn from his previous conviction and all that was mentioned to him during sentencing by the Court.

21. Perpetrators of domestic violence who are given suspended sentence must know that they are being given a second chance to rehabilitate and change their mentality and attitude whereby failure will result in such consequences. This applies to those who are still observing their suspended sentence period and those that their suspended sentence period had lapsed.

**H. Right to Appeal**

22. The Defendant is advised of his right to appeal this sentence within 14 days if he does not agree with it.

**Dated at Lakatoro this 28<sup>th</sup> day of May 2021**

**BY THE COURT**



The seal is circular with the text "REPUBLIC OF VANUATU" at the top and "REPUBLIQUE DE VANUATU" at the bottom. In the center, it reads "MAGISTRATE COURT".

**Trevor NAIEU**

**Magistrate**