

PUBLIC PROSECUTOR

V

NAUPAT MOSES

*Date of Sentence:* 06<sup>th</sup> November, 2023

*Before:* Magistrate FSam

*In Attendance:*

*Mr. Tamau\_M for the State Prosecution.*

*Defendant.*

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SENTENCE

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**Introduction**

1. Mr. Naupat Moses you appear today for your sentence, after pleading guilty to three counts of intentional assault causing temporary injuries.
2. For your guilty plea and admitting to the facts, I find you guilty of the three counts.

**Facts**

3. The brief facts are that on the 29<sup>th</sup> July, 2022, at Nambatu, Ronnie Nakamal area, you were fixing your light towards the road, when the first complainant Kenneth Korah walked passed with some of his friends, drunk and shouting with loud music. You then asked them to lower their noises and go home as it was getting dark. The first complainant then reacted by swearing back at you, which made you feel disrespected, so you went after them, with other community members, including the first complainant's brother. His brother first assaulted him, and when you reached the first complainant, you whipped his legs, hips and back with a piece of iron, that you were holding on to. At this point in time, the second complainant father, Mr. Tom



Korah, came in to stop you from assaulting his first complainant son, and that was when you also assaulted him and hit him on the head with the same piece of iron.

**Starting Point**

4. In sentencing you today, Mr Naupat, there are certain factors that I need to consider, in respect to your offending, which will assist this court in giving an appropriate sentence for you. These are the aggravating factors, or things that make your offending very serious, and the mitigating factors, or things that make your offending less serious.
5. I find that there are no mitigating factors to your offending.
6. The accepted aggravating factors to your offending, Mr. Naupat, include:
  - There were two victims, a father and son, who both sustained injuries.
  - You intended to commit the offence.
  - Your actions showed you decided to take the law into your own hands, therefore a clear disregard of the law.
  - You used a tool (piece of iron) as a weapon.
  - You attacked the complainant father, who was trying to protect his son.
7. The maximum penalty for intentional assault causing injuries of temporary nature, is 5 years imprisonment. The prison term itself also reflects the seriousness of your offending.
8. Given the relevant factors, I set a global starting point of 10 months imprisonment for all three counts of intentional assault.



### **Mitigating Factors and Guilty Plea**

9. I take note of your guilty plea at the earliest available opportunity, and although there was some confusion on your part in respect to count three, from which you were re-arraigned, I still award a one third deduction from the starting point.

10. Mr. Naupat, you are a first-time offender with no prior convictions, and you are remorseful for your actions, and admitted your offending, as well as you cooperated well with the Police and for these, I award a further 1 month deduction.

### **End Sentence and Suspension**

11. Mr. Naupat Moses, your end sentence is 6 months concurrent imprisonment for all three counts of intentional assault against you.

12. In considering whether or not to suspend your sentence, I take note that you are 48 years of age, you are a community leader and you run your own business to support yourself and your family.

13. I also noted that your intervention in this case was in the hope of ensuring the troubled youths or drunken youths within or at your surrounding neighborhood to be at peace with other community members, however you let your anger took control of yourself, that you ended up committing assaults.

14. I will allow suspension of your sentence for a period of 1 year, wherein you are ordered to be of good behaviour, and not to further reoffend.

15. The consequences of reoffending within the period of your suspended sentence may result in the suspension being uplifted, and you will have to serve the 6 months concurrent sentence.



16. You are also ordered to perform a reconciliation ceremony to the complainants, to allow future peaceful relations between yourselves and other families and community members around you.

17. This is your sentence Ms. Naupat Moses, and it will be affective after 14 days period given you should you seek to appeal it.

**DATED at Port Vila, this 06<sup>th</sup> November, 2023.**

**BY THE COURT**



**FSam  
Magistrate**

