

**IN THE MAGISTRATES COURT
OF THE REPUBLIC OF VANUATU**
(Criminal Jurisdiction)

Case No. 24/982MC/CRMN

PUBLIC PROSECUTOR

V

GLEND A KAHU

Date of Sentence: 20th May, 2024.

Before: Magistrate FSam

In Attendance: Mr. Skem_C- OPP

Mr. Bal_A for Defence

Defendant.

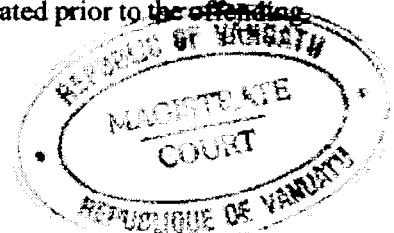
SENTENCE

Background/Introduction

1. Ms. Glenda Kahu, on the 2nd of May, 2024, you appeared before me, and pled guilty to the charges of Domestic Violence (count 1) and Arson (count 2).
2. As to the alternative charge, of domestic violence, prosecuting counsel had invited the court to enter nolle prosequi under section 29 of the criminal procedure code, and the court so ordered and acquitted you of this (alternative) charge.
3. Ms Kahu, you are therefore, to be sentenced only in relation to the principle charges you had pled guilty to, in relation to counts 1 and 2 as above-mentioned.

Facts

4. The facts in relation to your offending state that you used to be in a defector relationship with the complainant in this case, and had separated prior to the offending.



And that you had moved back to reside with your families at Eratap village, Efate Island.

5. That on the 22nd March, 2024, you were at the complainant's residence at Erangorango area with your daughter, when you willfully, and unlawfully set fire to the complainant's personal properties. That the following day, on the 23rd of March, 2024, the complainant, who had slept at his other residential address, at Beverly Hills, the night before, had just returned to his Erangorango residence, when he was confronted by you, and you had assaulted him with a wooden axe handle and then, proceeded to throw a stone at him, causing him to suffer injuries at that time. You then went ahead to set fire again to his belongings, that same day.

6. A medical report was produced in evidence of the injuries sustained following the assault you made on the complainant, as well as photographic evidence were produced on the properties damaged from the arson offence.

7. With no dispute to the facts and your guilty pleas, I find you guilty as charged.

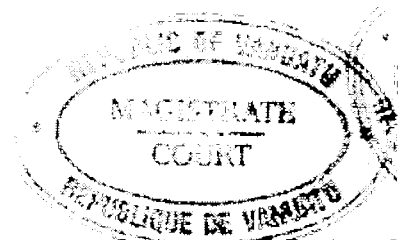
Starting Point

8. I consider the aggravating factors and mitigating factors to your offending in deciding the appropriate starting point for your sentence.

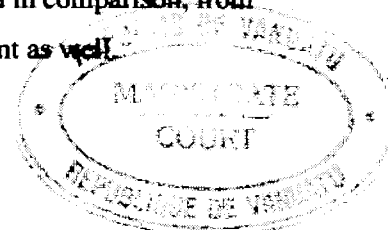
9. The maximum penalty for the offence of domestic violence is an imprisonment term of 5 years, or a fine of VT 100,000 or both fine and prison term, and for arson is a prison term of 10 years. Such penalties imposed by the law makers of this country reflect the seriousness of your wrong doing.

10. The accepted aggravating factors to your offending are:

- 1) Your offending was planned.



- 2) You had intended to cause harm to the complainant victim and damage to his properties.
 - 3) Your offending took place within the vicinity of the complainant's home, where he was supposed to be safe and protected.
 - 4) There was repeated violence on the victim, when you assaulted him first with a wooden axe handle and then you threw a stone at him.
 - 5) Your use of weapons in the assaults (axe handle and stone).
 - 6) The damage from the arson act resulted in a substantial loss of the complainant's personal properties totaling to an amount of VT 200, 000.
 - 7) There was an abuse of position of trust in your relationship with the victim who is also the father to the daughter you both share in the relationship.
 - 8) Your offending happened whilst you were employed as a sworn member of the Polie Force of the republic of Vanuatu.
 - 9) The complainant suffered injuries from your illegal actions.
11. There are no mitigating factors to your offending.
12. I consider the case of **PP v Enock**, as cited by Prosecution, and I am satisfied that the defendant in this case was provoked by the complainant's illegal acts, which in turn, got him angry, and caused him to use threats against the complainant, as well as to set fire to the complainant's property causing damages as a result.
13. In your case Ms. Kahu, there is no evidence of provocation, however it is likely that due to possible unsettled issue in the relationship, this could have led to the assault you did on the complainant and setting fire to his properties. And in comparison, from the cited case, your assault had led to injuries, on the complainant as well.



14. And given the relevant factors, I set a global starting point of 2 years imprisonment.

15. You entered a guilty plea at the earliest available opportunity, from which I award a one third deduction, leaving a total of 16 months from the starting point.

Guilty Pleas

16. For factors in mitigation and personal to you, 4 months is further deducted. This includes consideration of your attempt towards reconciliation as well.

End Sentence

17. I therefore impose the following as your end sentence:

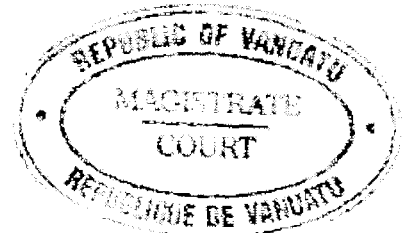
- 6 months imprisonment for the count of domestic violence.
- 6 months imprisonment for the count of arson.

18. Each sentence is to be served concurrently.

Suspension & Orders

19. I take note of your personal circumstances and given you have 2 dependent children between the ages of 2 and 6 years old, to care for, I adopt the sentencing principle in the appeal case of Timothy v Public Prosecutor [2024] VUSC 15, in considering suspension in your case, and I allow suspension of your sentence to a period of 12 months or 1 year.

20. This means you will not serve a prison term sentence, however, in any event, you commit any further offence within the period of your suspended sentence, the suspension will be uplifted and you will have to be sent to prison to serve your sentence.



21. You are further ordered to remain of good behaviour throughout the suspended period of your sentence.

Reason for Sentence & Right of Appeal

22. Your sentence is given as a form of punishment for your wrong actions, as well as to deter you and likeminded offenders from committing similar offences.

23. Your sentence is also necessary to give you a chance to rehabilitate from your unlawful acts.

24. You have 14 days to appeal your sentence if you are not happy with it, and in the event, no appeal is lodged, your sentence should come into immediate effect thereafter.

DATED at Port Vila, this 20th May, 2024.

