

PUBLIC PROSECUTOR

V

WUIS WILLIE

*In Attendance: Ms. Sharon Allanson for the State
Defendant appear in person*

SENTENCE

A. Introduction

1. Mr. Wuis Willie pleaded guilty on the charges of domestic violence.
2. He is therefore convicted as charged.

B. Facts

3. The Complainant is Betty Baliakar who is the defendant's de facto partner.
4. She lodged a criminal complaint with the Police in Luganville alleging that on 25 January 2024 at around 4.00 pm, the defendant was cooking in the kitchen at their home in Stone Hill, Fanafo Area and whilst in the kitchen, he told his son Zacchaeus to bring him a big plastic container of water.
5. His son then brought him a small plastic of water instead of the big plastic of water.
6. This upsetted the defendant so much that he assaulted his son with the plastic container he brought him and further assaulted him on his head using his fist.
7. He then broke off a branch of a flower plant, smack his son, and slapped him on his ear.
8. The victim having received the blows from the defendant fell to the ground unconscious.

9. The defendant then called his daughters namely Jeliwis Willie and Jeffline Willie and removed another branch from a plant and smack them repeatedly until they urinate on themselves.
10. The defendant was arrested and cautioned by the police and to which he admitted his offending.

C. Sentence starting point

11. The maximum penalty of domestic violence is 5 years imprisonment or VT 100,000 or both.
12. There are no mitigating aspects of the offending. The aggravating factors are:
 - The offending occurred in the confine of the victim's home where they are entitled to feel safe and secure.
 - Breach of trust in the family unit.
 - The victims are very young children (all under nine years) who deserves full protection from the defendant as their biological father.
 - The use of plastic bottle and a tree branch to perpetrate assault on the very fine young children.
 - Repeated assaults on the victims resulting in the son becoming unconscious and the two daughters urinating on themselves.
 - Recurrence and history of violence perpetrated by defendant in other cases where he failed to complete community work sentence and his re-offending now is in breach of his 2 years suspended sentence.
13. In considering the aggravating factor, I set a starting point of 2 years imprisonment.

D. Deductions for Guilty Plea

14. The defendant pleaded guilty at first opportunity. He is entitled to one-third reduction.
15. He is therefore entitled to one-third reduction of his starting sentence, which is 8 months.

E. Personal Factor

16. There is no mitigating factors personal to the defendant's offending.

F. End Sentence


17. The sentencing principles achievable in this case amongst others expressed in *Public Prosecutor v Vahirua* [2018] VUSC 15 are to hold you accountable for your conduct, to denounce your criminal conduct, to protect the community, to promote sense of responsibility for the harm done and to assist in your rehabilitation and re-integration.
18. Taking into account all matters in relation to all matters aggravating, the end sentence imposed on your offending is 16 months imprisonment.
19. I note from the presentence report and the sentencing submissions by counsel for the State that you have been previously sentenced on a number of offences including domestic violence towards your de facto partner and that you have re-offended in breach of your suspended sentence.
20. Moreover, you have failed to present yourself to the Probation Officer in the Correctional Department to complete your Community Work sentence and Supervision.
21. These circumstances therefore does not justify for a suspended sentence to be imposed.
22. The imprisonment sentence shall not be enforced until the time of appeal against the sentence has expired or Mr. Willie decides to start serving his sentence immediately (s50 Penal Code).
23. The Manager of the Correctional Centre in Luganville is to inform the Court by 7 June 2024 at 4.00 pm if the defendant failed to present himself in the Correctional Centre to start serving his sentence.

G. Appeal

24. He has 14 days to appeal to the Supreme Court if he is not satisfied with this sentence.

DATED at Luganville, this 17th day of May 2024

BY THE COURT


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MOSES PETER
Senior Magistrate