

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

Case No. 24/1000 MC/CRMN

PUBLIC PROSECUTOR

V

PETER NIAU

Date of Sentence: 04th July, 2024.
Before: Magistrate FSam
In Attendance: Ms Lunabek_L- OPP
Mr. Amos_K_S – Defence,

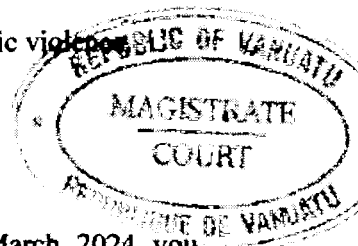
SENTENCE

Background/Introduction

1. Mr. Peter Niau you were initially charged with 3 count of Domestic Violence contrary to section 10(1) and 4(1) (a) and 4(1) (e) of the Family Protection Act of 2008, however, upon granting leave to prosecution, the charges were reduced to 2 counts of domestic violence.
2. You pled 'yes i tru' to both counts, and admitted the facts as presented by prosecution.
3. Consequently, you are found guilty of both counts of domestic violence.

Facts

4. The facts in relation to your offending is that on the 28th of March, 2024, you were at home, drunk with alcohol, when the complainant had then returned from work around 1:00pm. As she entered into your bedroom, you pulled her hair and punched her head with your right hand. She tried escaping from you, to another house, but you



followed her and upon reaching her, again with your right hand you punched her head again. By this time she fell down and you then kicked her backside twice with your right leg.

5. You then used foul language at her to the effect "*yu fuckem ol brata blong yum o family blong mi*".

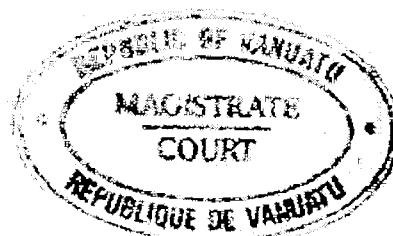
Starting Point.

6. I consider the aggravating factors and mitigating factors to your offending to decide on an appropriate starting point for your sentence. 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. Such penalty reflects the seriousness of your offending.

7. The accepted aggravating factors to your offending are:

- Your offending happened within the confinement of your home then, where the complainant was supposed to feel protected and loved.
- The complainant was vulnerable to your assault upon her.
- Your offending was unprovoked.
- Your offending was repeated in nature, in that you first punched the complainant twice on the head and later kicked her while she was on the ground.
- Your offending resulted in a breach of trust between yourself and the complainant.

8. There are no mitigating factors to your offending.



9. In deciding an appropriate sentence for you, Mr. Niau, I must consider the relevant factors and important case authorities cited to guide me.

10. I set a global starting point of 18 months imprisonment.

Guilty Pleas

11. You entered a guilty plea at the earliest available opportunity, from which I award a one third deduction from the starting point.

12. For factors in mitigation and personal to you, 4 months is deducted. For the reconciliation performed, I deduct further 4 months.

End Sentence

13. Your end sentence therefore is 8 months prison term for both counts of domestic violence against you, to be served concurrently.

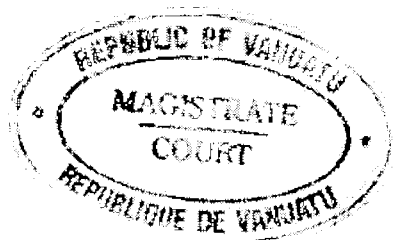
Suspension & Orders

14. I take note of your personal circumstances and necessary factors, and I allow suspension of your sentence for a period of 1 year.

15. 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.

16. Therefore, you are ordered to be of good behaviour throughout the suspended period of your sentence.

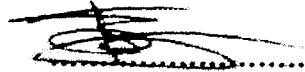
Reason for Sentence & Right of Appeal



- 1) 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.
- 2) Your sentence is also necessary to give you a chance to rehabilitate from your unlawful acts.
- 3) 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 04th July, 2024.

BY THE COURT



**FSam
Magistrate**

