

PUBLIC PROSECUTOR -v- NADEGE KOROKA

Coram: *Chief Justice Vincent Lunabek
Ms Kayleen Tavoia, the Public Prosecutor
Mr Felix Laumae for the Defendant*

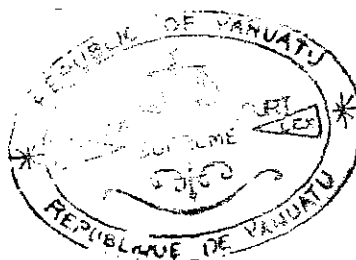
SENTENCE

This is the sentence of the Defendant, Nadege Koroka, who was found guilty of the offence of Intentional Homicide causing the death of Kathia Tom on 20 August 2006, contrary to Section 106(1)(a) of the Penal Code Act [CAP.135].

The offence carries a maximum penalty of 20 years imprisonment.

The guilt of the Defendant was secured after a lengthy trial of 2 weeks. At the end of the trial, the evidence are overwhelmingly against the Defendant. The evidence were unchallenged. The Defendant exercises her right to remain silent. There was no other rational explanation offered to the Court. On the basis of the unchallenged evidence, the Court convicted the Defendant, yesterday on 8 December 2006 of the unlawful killing of Kathia Tom on 20 August 2006.

This is a very serious offence indeed. The seriousness of the offence is reflecting through the nature of the offence itself: the killing of the life of another person by an unlawful and intentional act and the injuries, stab wounds inflicted on the body of the victim.



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The followings are the aggravating features in the commission of the intentional homicide, causing death of Kathia Tom:

1. The victim was 14 years of age and a student. Her life was taken away suddenly without any rational explanation or justification.
2. The injuries and stab wounds caused on the body of the deceased girl were inflicted by sharp and solid object.
3. There was a left periorbital haematoma.
4. There was injury on the left side head of the deceased and the skin was intact but black.
5. There was bruising in the right side of mastoid area (back side of the deceased head).
6. There was bleeding in the right ear canal, because of bruising right mastoid area blood coming from the deceased left ear canal.
7. There were multiple stab wounds on the left side of the head.
8. The snuffbox on deceased left forearm was injured with a deep
9. ~~The~~ object used is a natalai shell. It has a shaped edge. It was the weapon used to cause the death of the deceased girl on 20 August 2006.

The shape or form of the wounds on the head of the deceased girl are not regular. They are rugged. This would have caused a painful death by the loss of blood and shock leading up to the death of Kathia Tom on 20 August 2006. The skull of the deceased was opened up on a post mortem examination. The brain was grossly intact. The deceased Kathia Tom died as a result of blood loss and shock.

The prosecution refers the Court to the following cases:-

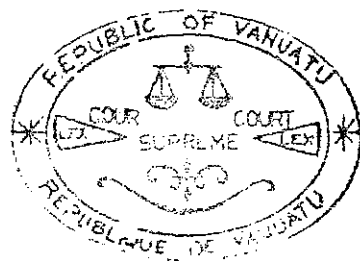
PP v. Tom Tupun, Criminal Case No.6 of 2002

PP v. Johnlyn Arnhabat, Criminal Case No.36 of 2003

PP v. Richard Ierogen

PP v. Sheddrack Joseph

PP v. Joseph Malesu



The sentences considered in the above cases, are sentences under Section 107(d) of the Penal Code Act [CAP.135]. The rational taken out from these cases, is that: *"The sentence to be imposed by the Court, under Section 107(d) of the Penal Code Act, in disputed cases, depends on the particular circumstances and situations of each case.*

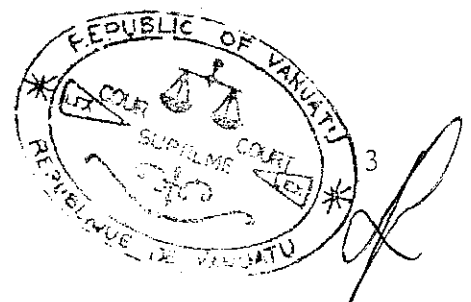
In situation where the Defendant had a weapon (such as a gun, a knife or other dangerous objects) and use it to cause bodily harm on the body of another person and as a result of which the victim died, the sentence imposed in a disputed case ranges from 8 to 10 years."

The prosecution submits that the appropriate sentence to impose against the Defendant in this case is 10 years. The aggravating features outweigh the mitigating ones, the Court should increase the sentence to 12 years imprisonment.

In mitigation, Mr Laumae submitted as follows:-

The Defendant, Nadege Koroka is of 17 years of age. She is the first born child of a family of 5 children. Her father works at Aore Resort. Her mother is house wife. The family lives at Luganville, Santo. The Defendant had completed her year 10 at the college de Santo. She works at Natagura café until she was arrested by the police on 25 September 2006. She has now lost her job. She lives with her parents and extended family. When she works, she supports her parents to meet the daily expenses of life. She planned to save money to pay for USP courses she intended to take at USP, Luganville.

During the submissions, options were considered whether some sort of custom compensation or ceremonies was done. The Court is informed that the Defendant wishes to do so. But the parents of the deceased girl do not accept such a process to take place.



The Defendant is a first time offender and she has a good character. The defence counsel submits that the Court should consider the case in **PP v. Johnlyn Arnhabat** and follow it and distinguish it with the case of **PP v. Tom Tupun and others**.

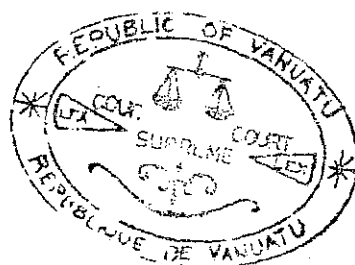
I have considered with care Mr Felix Laumae's submissions on behalf of the Defendant. I take very much into consideration that the Defendant is a young girl of 17 years of age. She has no previous convictions. She is a first time offender.

But I cannot help but think that by going into a private home, with intent to kill another person by inflicting serious grievous bodily injuries causing death, coupled with other aggravating features, must outweigh the mitigating ones.

This type of offence is becoming common to Vanuatu society. This cannot be tolerated. In sentencing the Defendant, I must bear in mind that it is the community's interest that I make sure that the sentence that the Court is going to impose will have a deterrent effect on the Defendant, so that she will not re-offend.

I must also bear in mind that the kind of sentence that the Court is going to impose will serve as a deterrent for other members of the community who might be tempted to act violently and viciously against the life of another person in the community.

The circumstances of the commission of the Intentional Homicide as found by the Court in the present case warrants an immediate term of imprisonment. I am conscious of the young age of the Defendant of 17 years. It troubles me so much to send a young person of that age immediately to prison. However, the violence and the gravity of such an act with the use of a weapon compels me to do so. Further it is not in the public interest that even for grave crimes, such as this, sentences should be passed which do not correlate sensibly and fairly with the time in prison which is likely to be served by somebody who has committed murder in circumstances in which there were no or minor mitigating circumstances.



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The maximum penalty imposed by law is 20 years imprisonment. I will now determine the appropriate sentence to be imposed on the offence as charged. To do so, I must ask myself this question:

"How long is the term of imprisonment warranted for the offence committed in the circumstance of this case?"

In the circumstance of this case and on the basis of the authorities provided the appropriate sentence is 8 years imprisonment. The aggravating features outweigh the mitigating ones. The sentence of 8 years must be increased to reflect that. It is increased to 10 years.

I take into account that the Defendant, Nadege Koroka, has spent some time in jail prior to her trial, as from 25 September 2006 to 9th December 2006, a total of 2 months and 15 days. This period shall be deducted from the total sentence of 10 years imprisonment.

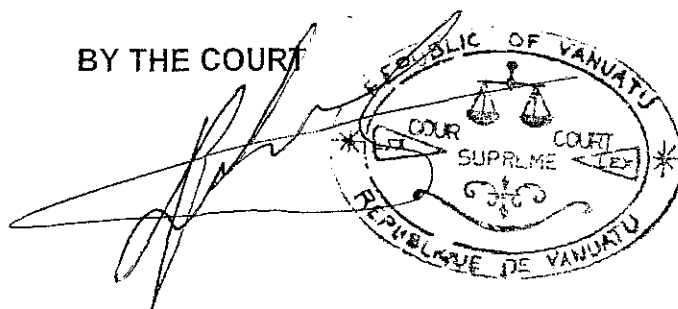
I have considered whether the circumstances of this case, the age of the Defendant justify a suspension of this term of imprisonment. I answer in the negative.

The Defendant, Nadege Koroka, is ordered to serve an imprisonment sentence of 10 years minus 2 months and 15 days with immediate effect.

The Defendant, Nadege Koroka, has 14 days to appeal.

DATED in Luganville, this 9th day of December 2006

BY THE COURT



Vincent LUNABEK
Chief Justice