

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

Criminal Case No.37 of 2007

PUBLIC PROSECUTOR

-V-

KAKAE ERIC

PP: Mr. S. Blessing (SB)
Defence: Mr. B. Livo (BL)

MINUTE

New information read in bislama to accused.

Count 1: Threats to kill

Accused: "True my lord"

Count 2: Attempted intentional assault

Accused: "True my lord"

Facts outlined in bislama.

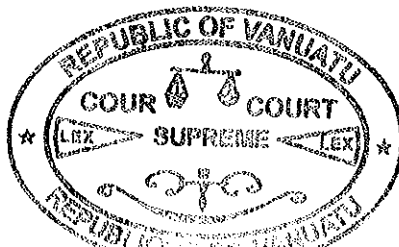
Accused: (through his counsel) agrees with most of the facts outlined but he denies having one of his teeth dislodged. The complainant did shoot him with a sling shot and it hit his mouth and dislodged his tooth. He was in pain and that's why he said what he said. He went home and forgot about it and did not intend to threaten the complainant's family. He denies swinging the axe twice at the complainant.

Court: *If he denies swinging the axe why does he admit attempted intentional harm?*

BL: He pleaded guilty because he had an argument and he was carrying his knife at the time. The complainant told him to leave his knife and axe and he did then the complainant shot him with a stone sling.

Court: *Does defendant admit in Count 1 uttering those threatening words about chopping the complainant into bits?*

BL: No.



Court: What then is he admitting in **Count 1** – Threats to kill?

BL: They had an argument.

Court: In light of the defendant's explanations and denials I am obliged to change his pleas to one of "not guilty" to both counts. This matter is adjourned for trial tomorrow at 9.00 a.m. Bail extended.

Court resume. 26 October 2011 at 9.00 a.m.

SB: No witnesses to call. Received information from complainant yesterday that he no longer wishes to pursue this matter as he and the defendant have effected custom reconciliation and harmony has returned to this community. The State does not wish to force the complainant to testify as he has already accepted custom settlement from defendant.

In the circumstances we believe justice would be served if this Court promotes peace between the parties and for the parties to maintain it. If there no settlement we would have continued with the case.

State wishes to enter a nolle prosequi under Section 29 of the Criminal Procedure Code and the defendant be discharged.

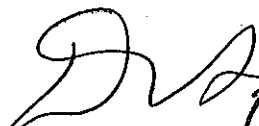
BL: Agree and join with the prosecution's application. I have explained the situation to the defendant who understands and agrees with the proposed course.

RULING

Defendant is discharged under Section 29 of the Criminal Procedure Code pursuant to a nolle prosequi entered by the Public Prosecutor.

DATED at Morua, Tongoa, this 26th day of October, 2011.

BY THE COURT


D. V. FATIAKI
Judge.

