

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

VS.

**KENNETH MOLI
JEFF VURO
DAVID BANI
BERRY VUI**

Mr Justice Oliver A. Saksak
Mrs Anita Vinabit – Clerk

Ms Kayleen Tavoia for Public Prosecutor
Ms Jane Tari for Defendants

Date of Plea: 12th April 2011
Date of Sentence: 24th May 2011

SENTENCE

1. Kenneth Moli, Jeff Vuro, David Bani and Berry Vui, you all pleaded guilty on 12th April 2011 to one charge of intentional assault contrary to Section 107 (c) of the Penal Code Act Cap. 135.
The penalty for this offence is 5 years imprisonment.
2. In sentencing the four of you today, the Court takes into account the facts of the case, which you have conceded to. In other words you do not dispute the facts as they occurred. Therefore, it is not necessary to restate those facts.
3. From the facts the Court can see the aggravating features of the case which makes the offending become more serious. These are that –
 - (a) The four of you carried out the intentional assault.



- (b) It was a planned assault.
 - (c) The injuries sustained as revealed by the medical report showing injuries of a permanent nature.
 - (d) There was a breach of family trust and relation.
 - (e) No opportunity was given to the victim to answer any allegations.
 - (f) An action taken in the spur of the moment amounts to taking the law into your own hands.
4. From the facts the Court considers and accepts that 2 years imprisonment is the starting point for all four of you. These would be increased to 3 years due to the aggravating features.
5. I have given considerations to your mitigating factors which are that –
- (a) You all pleaded guilty at the first available opportunity.
 - (b) Your cooperation with Police at interviews.
 - (c) You are all first-time offenders.
- For those I consider that 8 months be deducted from your sentences of 3 years imprisonment.
6. Therefore, the Court convicts and sentences all 4 of you as follows –
- (a) Kenneth Moli – 2 years and 4 months.
 - (b) Jeff Vuro – 2 years and 4 months.
 - (c) David Bani – 2 years and 4 months.
 - (d) Berry Vui – 2 years and 4 months.
7. The purposes for imposing a severe custodial sentence on all 4 of you today are that –
- (a) There be a deterrence to you and to others.
 - (b) To mark the seriousness of the offending.
 - (c) To mark public condemnation of such unlawful behaviour



(d) To punish you all adequately.

8. I have had regard to the cases cited by both the Prosecutions and the defence counsel. All those cases are distinguished on their facts and circumstances. What differentiate your offending from the other cases cited is that you were a group of 4 men against one elderly person. It was not done in the spur of the moment. After he was knocked down and laid helplessly on the ground, you all continued to kick him without any regard for his safety and life. That is what makes this offending so serious that only a custodial sentence can be the most appropriate punishment.
9. The Court declines to make any compensation order.
10. All 4 of you are sentenced to imprisonment to terms of 2 years and 4 months beginning on 26th March 2011, when you were all first taken into custody.

DATED at Luganville this 24th day of May 2011.

BY THE COURT


OLIVER A. SAKSAK

Judge

