

PUBLIC PROSECUTOR

V

PATU AMBI

Sentence: Thursday 20 November 2014 at 11 am, Lakatoro, Malekula
Before: Justice SM Harrop
Appearances: Tristan Garae for the Public Prosecutor
Andrew Bal and Stephen Carlo (PSO) for the Defendant

SENTENCE

1. Patu Ambi, you appear for sentence today on one charge of threatening to kill your wife on 31st August 2013, so it was about 15 months ago. That is a very serious charge, as is indicated by the fact that Parliament has set a maximum penalty of 15 years imprisonment.
2. The facts are that you and your wife on that Saturday morning went up to the gardens to work together, you were burning rubbish and your wife went and sat next to where the fire was. There was an argument and you reacted by taking a small knife, placing it across her neck and telling her that you would cut her neck and leave her body in the bush to rot. If she wanted her life back she should return home and if she did not you would cut her neck. She asked you why you were doing that and you told her it was because she had taken your daughter to Norsup hospital but had not returned and instead spent the night with her parents. I say immediately that whatever disagreement you may have had with her behaviour, nothing can ever justify threatening your wife like this.
3. There are two obvious aggravating features here compared with some other cases of threatening to kill. First you placed a lethal weapon next to her neck

so it was a real threat and you had the present ability to carry it out. It is therefore a very different situation from that where a threat is made to somebody else that you are going to harm your wife or where you make a threat to your wife but you simply yell out something rather than actually having a weapon in your hand at the time.

4. I want to emphasize to you that although perhaps you did not intend to carry out the threat, she did not know that. She was understandably in fear of her life. So there was severe mental trauma associated with what you did even if no physical harm.
5. The other obvious aggravating feature is the gross breach of trust in threatening your wife and the mother of your four children in this way. You should always respect your wife and she is entitled to feel safe with you. What you did is the very opposite of being a good husband.
6. So this is a serious example of threatening to kill. The Public Prosecutor refers to some guideline judgments and particularly the well-known case of Kell Walker v. Public Prosecutor [2007] VUCA 12. With reference to that case he submits that a starting point before considering mitigating factors of three years' imprisonment is appropriate but he also accepts that there must be deducted from that one-third for an early guilty plea. He submits, taking into account other mitigating matters, an end sentence of 18 months imprisonment suspended for two years and 250 hours community work.
7. Mr Bal notes the Walker case as well and acknowledges the facts are fairly similar. He says the big difference is that Mr Walker did not plead guilty but you did. He received two years imprisonment, one year of which was suspended. Mr Bal submits you are remorseful, you have cooperated with the police, you have been of good character before this with no previous convictions and you have performed a custom reconciliation ceremony with your wife shortly after being charged in the Magistrate's Court on 10 September 2014.

8. Mr Bal also notes you have four children, that you are the sole breadwinner and you have been living together satisfactorily and getting on well since the custom ceremony. I am very pleased to hear from Mr Garae that your wife (who is here today) agrees with that assessment. She says that you have been treating her well since then and she does not fear that you are going to threaten her again. I certainly hope that is the case because if you do then it is virtually inevitable that you would be sent to prison and required to serve your sentence.
9. For these reasons I accept that a suspended prison sentence is appropriate together with community work. Mr Bal suggests an end sentence of 12 months' imprisonment suspended for two years but I prefer Mr Garae's assessment and consider that this is a serious case which warrants an end sentence of 18 months imprisonment, which should be suspended and will be for two years. What that means is that if you commit any offence during that two-year period you will be required to serve your 18-month prison term.
10. Although of course this is an offence against your wife first and foremost, it is also an offence against community standards where domestic violence is rightly frowned upon by the Courts and by responsible members of the community. So it is appropriate that you also serve some community work.
11. Given the time that has passed since the incident, and taking into account the fact that you appear to have done well in your relationship with your wife since the custom reconciliation ceremony, I am going to impose less community work than I would otherwise have done and less than Mr Garae suggests I should. In the end, I consider a sentence of 100 hours community work to be sufficient.
12. You should understand that if you breach your community work, if you do not do what the probation officer tells you to, that would be committing an offence which would trigger your obligation to serve the prison sentence. So you have a considerable incentive to comply with your community work.

13. A major factor in my decision to suspend the prison sentence is that if I were to send you to prison your wife would be victimised twice because she would, as well as being the victim of this offence then lose the benefit of your income-earning ability. She is an innocent victim and should not be further victimised. The same applies to your four children whose attendance in school requires payment of fees, something that only you can provide so they would be victimised if you were sent to prison.
14. I also want to say to you, that you are a role model for your children and the way you behave towards your wife tells them how one should behave. So if you are angry with your wife and you are violent to her, your children will learn that that is the way to behave. You have a significant responsibility as a parent to teach your children the right way to behave. Although this offence was not committed in the presence of the children, it reflects a very poor attitude on your part as to how to treat your wife which is likely to have been demonstrated on other occasions when the children were present. So please think about that as you live together as a family from now on.
15. In summary the end sentence is 18 months imprisonment suspended for two years together with 125 hours community work.
16. You have 14 days to appeal against this sentence if you are dissatisfied with it.

BY THE COURT