

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU** 2014
(Criminal Jurisdiction)

Criminal Case No. 05 of 2014

PROSECUTOR - VS - PHILIP LIVO

PUBLIC PROSECUTOR - VS - PHILIP LIVO

Coram: Mr. Justice Oliver A. Saksak

**Counsel: Mr. Ken Massing for the State
Mr. Junior Garae for the Defendant**

Date: 26th February 2014

DEFENCE

SENTENCE

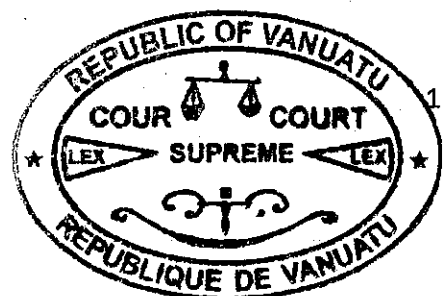
1. Philip Livo you are for Sentence today having pleaded guilty to one charge of unintentional harm causing death contrary to section 108(c) of the Penal Code Act [Cap. 135].

2. The maximum penalty for this offence is 5 years imprisonment.

3. The facts are simple. On 30th December 2013 at the highway from IRHO, you drove at an excessive speed and collided with a bicyclist by name of Johnny Jimmy, causing his death. You have accepted and conceded to those brief facts.

4. This was a tragic accident. It is clear that you drove at high speed. Your drivers licence was issued only 7 days prior to the accident on 23rd December 2013.

5. In Sentencing you I have considered your pre-sentence report and the submissions made by both the prosecutor and defence counsel. I appreciate the cases cited by Counsel which have assisted the Court in assessing your punishment. Every case differs in its own way and circumstance.



6. I note you have realized that you were in the wrong. You have regretted your action and have shown that by the reconciliation ceremony, a record of which you have annexed as Appendix C to your pre-sentence report.

7. I do not consider any compensatory aspect of this case. I merely deal with the criminal liability and punishment.

8. For the clear admission of guilt, the Court hereby convicts you and sentences you to imprisonment for a period of 2 years. There will be no uplift.


9. In mitigation I reduce your sentence by 8 months. That represents a 1/3 reduction. I deduct a further 4 months for the custom ceremony and clean record. That leaves the balance of 12 months (1 year) imprisonment.

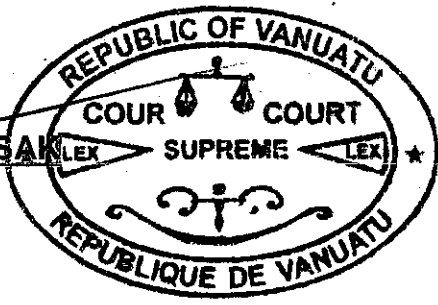
10. Under the circumstances of the case, I Order that your sentence be suspended for a period of 2 years with supervision and on special conditions. There is a separate order to this effect. You must report to the Probation Officer within 72 years.

11. That is the Sentence of the Court. You have a right of appeal within 14 days if you so choose.

February 2014 DATED at Luganville this 26th day of February 2014.

BY THE COURT


OLIVER A. SAKSAK
Judge



The seal is circular with the text "REPUBLIC OF VANUATU" at the top and "REPUBLIQUE DE VANUATU" at the bottom. In the center, it says "COUR SUPREME COURT" with a scale of justice above the word "SUPREME". On either side of "SUPREME" are the letters "LEX" inside a triangle. A star is on the right side of the seal.