

PUBLIC PROSECUTOR VS- RONGO MOLI

Coram: Mr. Justice Oliver A. Saksak

Counsel: Losana Matariki for Public Prosecutor
Less John Napuati for Defendant

Date of Plea: 25th April 2017

Date of Sentence: 2nd June 2017

SENTENCE

1. Rongo Moli, you are for sentence today for having pleaded guilty to one charge of unintentional harm causing death contrary to section 108(c) of the Penal Code Act [CAP.135].

2. Section 108 states:

“ No person shall unintentionally cause damage to the body of another person through recklessness or negligence, or failure to observe any law.

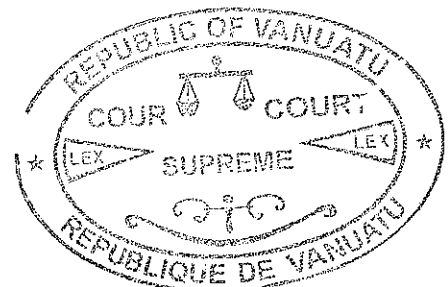
Penalty:

a) N/A,

b) N/A.

c) *If the damage so caused results in death, imprisonment for 5 years.”*

3. One New Year’s Eve, 31st December 2016 at or about 7-8 o’clock at night on the main road towards the road junction heading to Asco Motors you drove a Hyundai Bus. And you were travelling at a very high speed of around 70-80 kms per hour towards Au Bon Marche when the bus hit a pedestrian by name of Michael Tabi. He was crossing the road at the time. The bus you drove hit the victim so hard he was thrown at around 24.6 meters away from where he was hit. He sustained very serious injuries and was in a coma for 4 days at the hospital before he finally passed away.

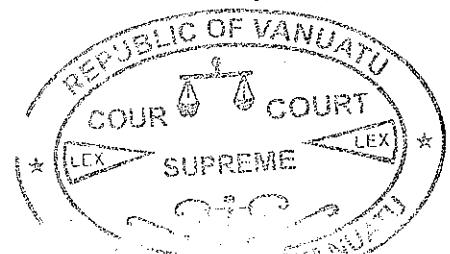


After the accident, you did not stop but continued driving and only stopped at the Warhorse Saloon towards the wharf where you reported the accident to the owner of the bus. The bus-owner advised you to go the police and report the accident which you did.

4. In considering and assessing your sentence, I have been assisted by the cases submitted by the prosecution which are PP v Toka [2013] VUSC 174 and PP.v. Maliu [2016] VUSC 4. The circumstances in these cases differ to a great extent to your case. In Maliu, the weather was bad and there was poor visibility. In Toka the defendant drove at high speed without any attention to other road users. I consider you case is for more serious than Maliu's and Toka's cases.
5. You were indeed reckless in your driving. You drove at high speed and with negligence for other road users. Witnesses saw the victim had already crossed the main street, and was almost on the safe side when the bus you drove hit him. He flew out to a distance of about 24 meters. He sustained very serious injuries causing him to fall into a coma and finally death.

Considering all these factors I consider your offending falls at a higher end of the scale for this category of offending. And in my opinion a custodial sentence is a appropriate to serve as-

- a) A deterrence,
 - b) A mark of public disapproval of your actions,
 - c) A mark of seriousness of your offending,
 - d) A safeguard to pedestrians and other road users.
6. For the foregoing factors, I consider the starting point shall be 3 years imprisonment.
 7. In mitigation you are entitled to 1/3 reduction for your early guilty plea bringing down your sentence to 2 years imprisonment. There will be no further reduction as you have not performed any custom reconciliation yet after all this time. And you do not appear to show any remorse for what you did. And had the owner of the bus not told you, you




would have gone to the police at all to give yourself in. Section 17 of the Road Traffic (Control) Act [CAP 29] requires you to stop after the accident, but you did not.

8. Rongo Moli, you are therefore convicted and sentenced to an end sentence of 2 years imprisonment. However this sentence is suspended for a period of 3 years under section 57 of the Act on condition that you do not commit this offence or any other offence for which you would be charged and convicted. If you do, you shall go to prison to serve out your 2 years imprisonment sentence.
9. During your period of suspension you are disqualified from driving any motor vehicles of whatever description. The disqualification is made under section 55 of the the Road Traffic Act. Although you were not charged under section 12 of the Road Traffic Act, the offence under section 108 (c) of the Penal Code Act carries the same penalty as for the offence under section 12. In that regard the offence is the same as in section 12.
10. You are required to surrender your driving licence to the Court forthwith.
11. That is the sentence of the Court. You may wish to appeal against this sentence in which case you should do so within 14 days.

DATED at Port Vila this 2nd day June 2017

BY THE COURT


OLIVER.A.SAKSAK
Judge

