

BETWEEN: Public Prosecutor

AND: Ezekiel John
Defendant

Coram: Justice Aru

Counsel: Ms. B. Ngwele for the Public Prosecutor
Mr. H. Vira for the Defendant

SENTENCE

Introduction

1. Mr Ezekial John this is your sentence. You were charged with one count of threats to kill. On 6 March 2019 you entered a not guilty plea to the charge. Subsequently on 3 June 2019 upon re arraignment you pleaded guilty to the charge. The maximum penalty for this offence is imprisonment for 15 years.

Facts

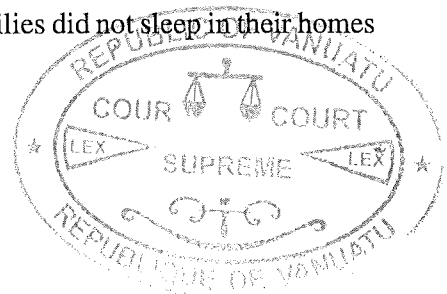
2. The complaint against the defendant was made by his two uncles which I will refer to them as ES and PS. They all reside at Epule, North Efate. The complaint was that on 30 January 2019 at Epule, the defendant threatened to kill his two uncles by cutting them with a knife. He first approached ES at his house around 700pm and said:-

“ yu swim jenis gud be tedei naet mbae mi stikim yu long naef mabi yu ded.” (English translation: You shower and change your clothes for tonight I will stab you with a knife and you will die)”

3. Later that evening ES went to have some kava with PS. They were eating when the defendant approached them with a bush knife. He swung the knife in the middle of them and cut a tree trunk and said words to the following effect to both his uncles:-

“tedei mbai mi killem ded yutufala (English translation: Tonight I will kill both of you)”

4. The threats were heard by a number of people but all understood it to be a threat to kill. As a result of the threats the complainants and their families did not sleep in their homes that night as they were afraid of the defendant.



Pre-Sentence Report

5. The defendant originates from leiwaima village on the island of Tongariki. He is 22 years of age and comes from a family of five and he is the second eldest child. When their mother passed away they continued to live with the father. In 2016 the defendant came to live with his uncles at Epule.
6. He is a member of the Seventh Day Adventist church and completed his education at Ekiye School at class 6. He could not continue due to financial constraints. He has skills in building houses farming and mechanics and intends to find a job to improve his life. His village chief said the defendant does not respect the community and does not listen to him. The defendant is said to involve in activities which continue to disturb the peace even at night due to him playing loud music all the time whenever he consumes alcohol. His chief recommends that the defendant returns back to his father on Tongariki and is no longer welcome to reside at Epule.

Aggravating factors

7. Factors which aggravate the offending are first there was a weapon used, (a knife) to carry out the threat. Secondly the threats caused complainants to fear for their lives and did not sleep in their homes.

Starting point

8. Considering these factors I adopt a starting point of 4 years imprisonment.

Mitigation

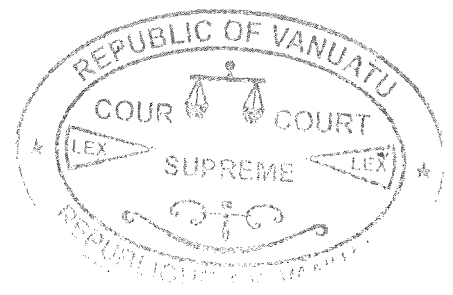
9. The defendant is a young man of 22 years and is a first time offender with no previous convictions. I therefore deduct 12 months reducing the sentence to 3 years imprisonment.

Guilty plea

10. A guilty plea was entered but not at the first reasonable opportunity. Therefore 4 months is deducted reducing the sentence to 2 years and 8 months imprisonment. The circumstances of the offending are very serious, a knife was used and the defendant used it to demonstrate how he was going to cut the complainants by cutting a tree trunk in their midst when the complainants were eating. The sentence will not be suspended.

End sentence

11. Your end sentence is 2 years and 8 months imprisonment effective from 2 February 2019 when you were remanded into custody.



12. You have 14 days to appeal if you are not happy with the decision.

DATED at Port Vila this 23rd day of July, 2019

BY THE COURT

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D. Aru
Judge

