

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

Criminal
Case No. 21/2397 SC/CRML

BETWEEN: Public Prosecutor

AND: John Telkon Melsul
Defendant

Date of Sentence: 7 September 2021
Before: Justice G.A. Andrée Wiltens
In Attendance: Ms G. Kanegai for the Public Prosecutor
Ms L. Bakokoto for the Defendant

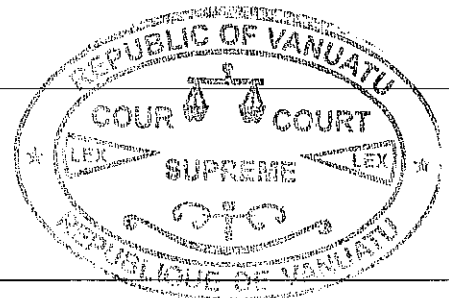
SENTENCE

A. Introduction

1. Mr Melsul pleaded guilty to charges of unlawful entry and intentional assault.

B. Facts

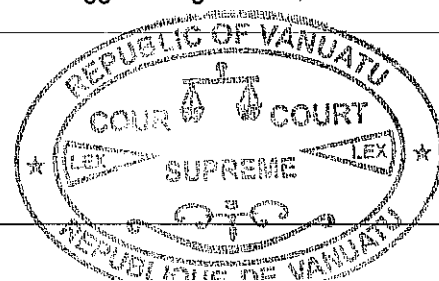
2. Mr Melsul is currently 58 years old. As he has been working on a fishing boat for most of his life, he is unmarried. He was a security guard at the Paradise Gas Company at Manples.
3. On 27 April 2021, in the evening, Mr Melsul was drunk. It appears that he had taken a fancy to a fellow work mate, Ms Annie Sale, and had been in the habit of buying her treats at lunchtimes to impress her. However, his attentions were not reciprocated.



4. In his drunken state, he entered his work premises without authority and with intent to offend via a small gate. He went into the office where Ms Sale was working. He was armed with a machete, which he used to strike at Ms Sale's head. Due to the size of the office, it was difficult for Ms Sale to escape, and she resorted to trying to protect her head with her right hand. As a result, she received injuries to both her head and her right hand.
5. After receiving several blows, Ms Sale succeeded in escaping and raised the alarm. She was taken to Port Vila Central Hospital for treatment to her cuts.
6. A medical report confirmed no fractures to the skull or hand, but indicates the following injuries were occasioned by the attack:
 - A 10cm long and 1 cm deep knife wound to the right upper neck, requiring 10 stitches to repair;
 - A 10cm long and 1cm deep knife wound to the right occipital scalp, requiring 10 stitches to repair;
 - A 4 cm long knife wound to the dorsum of the right hand, requiring 4 stitches to repair; and
 - Small cuts 1 cm long to the back of the 3rd and 4th right fingers.
7. Mr Melsul was arrested. When interviewed by the police, he admitted the offending.

C. Sentence Start Point

8. The sentence start point is to be assessed by having regard to the maximum penalties available for the offending and factoring in the aggravating and mitigating aspects of the offending.
9. Both offences have a maximum sentence of 10 years imprisonment.
10. There are no mitigating aspects to the offending. However, there are aggravating factors, including the following:



- There is a breach of trust involved as between work mates;
- Numerous blows were administered, including to the most vulnerable part of the human body, namely the head;
- A lethal weapon was taken to the scene and actually used to administer the numerous cuts to Ms Sale;
- This was an unprovoked attack on an unsuspecting victim;
- There was pre-meditation involved and a degree of planning; and
- The effects on Ms Sale – she remains emotional traumatised when replaying the event, and has been psychologically affected by the offending. She has permanent scars and her right hand no longer operates as it did as a result of the cuts inflicted. She feels unsafe and unprotected after the incident. Her feelings were best expressed in her VIS which she read out to the Court.

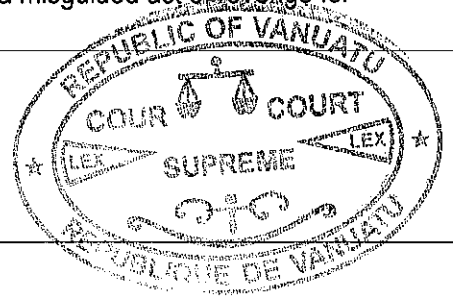
11. I adopt a sentence start point of 5 years imprisonment, on a global concurrent basis.

D. Mitigation

12. Mr Melsul pleaded guilty at the earliest available opportunity. He spared the need for Ms Sale to give evidence, and his pleas are an indication of his acceptance of wrong-doing. For his prompt pleas, I reduce the sentence start point by 33%.

13. Mr Melsul has led a solitary life, working on fishing boats and having never been married. He also has few connections within the community as a result. As a result of this incident, he has lost his job as a security guard.

14. He has no previous convictions. He has not participated in a custom reconciliation ceremony for fear of breaching his bail conditions. He claims to be remorseful, but that is an easy statement to make and is unsupported by his deliberate conduct. This was a misguided act of revenge for



Ms Sale's lack of reciprocity to his attentions. His claim that alcohol was the cause of his offending is completely rejected.

15. For his personal factors, I further reduce the sentence start point by 4 months.

E. End Sentence

16. The end sentence I impose is 3 years imprisonment. I impose that on both charges concurrently.

17. Mr Melsul has already served some incarceration prior to sentencing. Accordingly, the sentence start date is back-dated to 30 April 2021.

18. The charges are very serious. Accordingly, there will be no suspension of any/all the sentence.

19. Mr Melsul has 14 days to appeal the sentence.

DATED at Port Vila this 7th day of September 2021

BY THE COURT



Judge G.A Andrée Wiltens

