

PUBLIC PROSECUTOR

v

RITCHIE VIRA

Date: 4 September 2023
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr G. Simeon
Defendant – Mr J. Garae

SENTENCE

1. Mr Vira pleaded guilty to intentional assault causing death contrary to subs. 107(d) of the *Penal Code* [CAP. 135].
2. At night on 14 July 2023 at Banban area on Santo, Mr Vira asked his uncle the deceased 31-year old Arnold Garae's wife Marinah Maoh for kava. She refused but he went ahead and filled up his 1.5 litre bottle with kava juice. The deceased confronted Mr Simon and told him to return the kava juice. In response, Mr Vira stabbed him with a small knife. The deceased called out to his wife who rushed him to the hospital but he was already dead on arrival. Mr Vira left while the deceased was taken to hospital.
3. The deceased was pronounced as dead before arrival at 7pm. The cause of death was confirmed clinically as a left chest stab wound which lead to a severe hypovolemic shock which resulted in an acute cardiorespiratory arrest. The wound was approximately 5cm deep, a sharp oblique incision from the skin entering the deceased's left anterolateral chest wall between the 7th and 8th intercostal space that perforated the pleural membrane and through the heart.
4. Mr Vira admitted his offending to the Police.
5. The maximum penalty for this offence is 14 years imprisonment.
6. It is an aggravating factor of the offending that a weapon was used and on a vulnerable part of the body, there was a degree of premeditation, the defendant left the deceased unconscious and ran away, the offending occurred at night time and breach of trust.



7. The deceased's wife in her Police statement said that her husband told Mr Vira to put the kava juice back in the bucket. Mr Vira refused. Her husband tried to hit Mr Vira but he stabbed him. Mr Vira said in his Police statement that the deceased hit him twice and then he reacted by stabbing him with the knife. It could be said that Mr Vira was provoked however he brought the situation on himself by helping himself to kava juice without the consent of the deceased and the deceased's wife. I consider therefore that there are no mitigating aspects to this offending.
8. I have regard to the decisions in *Public Prosecutor v Ierongen* [2002] VUCA 34 and *Lava v Public Prosecutor* [2020] VUCA 28. I adopt a sentence start point of 8 years imprisonment as appropriate for this offending.
9. Mr Vira is 23 years old and was 21 when he committed the offending. He left school in year 9. He is single and has a 2-year old son. His father is overseas on Regional Seasonal Employment Scheme work and he looks after the family property at Temproma where he lives alone. He has no previous convictions and is stated to be remorseful. He has been in custody since 16 June 2023.
10. Mr Vira's family have performed a custom reconciliation ceremony with the deceased's family involving 4 traditional mats, 5 small traditional mats, 5 blankets and VT100,000 cash. Mr Vira's father's family also purchased the deceased's coffin.
11. For Mr Vira's personal factors, I reduce the sentence start point by 15%.
12. Mr Vira pleaded guilty at the earliest available opportunity. The maximum discount available for that is up to one-third of the sentence. However, the evidence against Mr Vira was overwhelming. He had little option but to plead guilty. In those circumstances, the early guilty plea warrants a discount of 20%.
13. The end sentence imposed is 5 years 6 months imprisonment. It is backdated to commence from 16 June 2023.
14. The sentence will not be suspended as there are no exceptional circumstances to warrant suspension.
15. Mr Vira has 14 days to appeal the sentence.

**DATED at Port Vila this 4th day of September 2023
BY THE COURT**

VM Trief
Justice Viran Molisa Trief

