

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

Criminal
Case No. 22/1296 SC/CRML

PUBLIC PROSECUTOR
v
WILLIE PIERRE

Coram: Hon. Chief Justice V. Lunabek

Counsel: C Shem for the State
K B Karu for the Defendant

Date of Plea: 22 February 2023

Date of Sentence: 9 June 2023

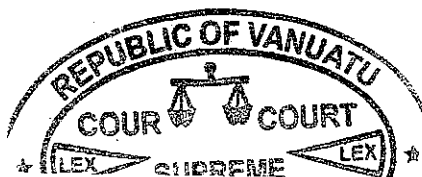
SENTENCE

A. Introduction

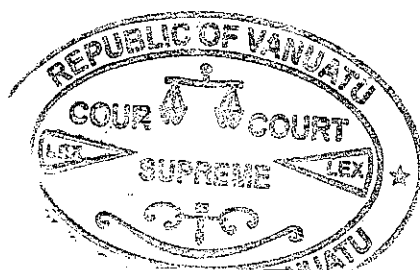
1. Mr Willie Pierre, you were initially charged with one (1) count of threat to kill a person (count 1), one (1) count of intentional assault (count 2) and one count of domestic violence (count 3).
2. On 22 February 2023, you entered not guilty pleas for the offences of threat to kill a person, and intentional assault, contrary to Section 115 and 107(b) of the Penal Code respectively.
3. The prosecution offered no evidence in respect to both offences of threat to kill a person and intentional assault pursuant to Section 29 of the Criminal Procedure Code Act [CAP. 136]. Both offences were dismissed accordingly.
4. You appear to receive sentence for the offence of domestic violence, contrary to Sections 10(1) and 4(1)(a) of the Family Protection Act No. 28 of 2008 (count 3).

B. Facts

5. Prior to the date of the offending, you and the complainant (Naomi Nawe) were living in a defacto relationship. The complainant was also 4 months pregnant at the time of offending.



6. On 3rd October 2022, at about 9:30am, the complainant had an appointment at the hospital for her check-up. She approached you for some money for bus fares and other expenses.
7. You refused to give her any money. The complainant, then, told you that she was going to ask her mother to help her with some money for her check-up. Her mother lives at Teouma Academy area, Efate.
8. When she was in the main road to the place where her mother resides, you followed her and told her to stop what she was intended to do.
9. The complainant refused to listen to you or she refused to comply with your instructions.
10. You, then, took a kasis wood (stick) and hit her with that stick. After you hit her with the stick, you pushed and pressured the stick directly toward her belly.
11. The complainant defended herself by turning her backside instead. As she felt it was painful, she cried out. You further assaulted her hand with the stick (of kasis wood) repeatedly which resulted in bleeding.
12. Despite these physical treatments and assault on her body, she went to see her mother at Teouma Academy area as she was in fear of you.
13. Your actions on her were an ongoing behaviour which made her very fearful to stay with you.
14. On 6th October 2022, the complainant went to the Vila Central Hospital and obtained a medical report. The findings were that she had suffered:
 - (i) Back pain with bruising (muscular strain);
 - (ii) Abdominal pain (bruising);
 - (iii) Right arm bruising (soft tissue injury);
 - (iv) Left leg bruising;
15. The medical report also confirmed that the complainant was 4 months pregnant.
16. The doctor said in his opinion, the complainant was assaulted.
17. You were cautioned on 17 November 2022. You elected to speak only in court.



C. Sentence Start Point

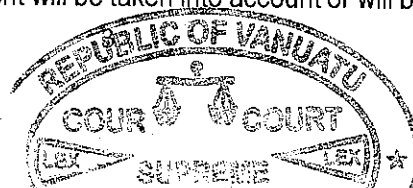
18. The offence of Domestic Violence carries a maximum penalty of imprisonment not exceeding 5 years or a fine not exceeding VT100,000 or both a fine and imprisonment.
19. The following aggravating factors are present in this case:
- (i) Serious breach of trust;
 - (ii) Repetition of assaults;
 - (iii) Use of a weapon (a stick of casis wood);
 - (iv) Assault also was aimed at the belly of the complainant (victim), a vulnerable part of the body where prospects of further injuries could have been sustained given the status (pregnancy) of the victim;
 - (v) Fear and pain cause to victim;
 - (vi) Offences occurred at home where the complainant should feel safe.
20. I set a sentence start point of 36 months imprisonment.
21. There is a personal factor leading to your offending. You are not a first time offender. You have previous convictions of arson and obstructing a police officer when you were 23 years of age. You were 27 years old at the time of the present offending. I assess and give an uplift of 3 months imprisonment to your sentence start point.
22. Your sentence start point or your highest sentence in this case is 39 months imprisonment.

D. Mitigating Factors

23. You are from Lenaken village, Middle Bush Tanna Island. You now reside at Teouma Avoga, Efate. You maintain good relationship with your family, chief and community. You felt sorry for what you did and you will not re-offend again in the future. You have performed a custom compensation reconciliation. You gave VT2,000 and a calico worth VT3,000. I give you a reduction of 6 months.
24. You pleaded guilty at the first opportunity given to you by the court, although, you elected to speak only in court. I give you a reduction of 33% to your sentence start point.

E. End Sentence

25. Your end sentence is 22 months imprisonment.
26. You were remanded in custody since 7 February 2023 till sentenced. The pre-custodial period you have already spent will be taken into account or will be considered in your favour.



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27. The seriousness of this offending does not warrant that I suspend your imprisonment sentence of 21 months.
 28. Your sentence of 22 months imprisonment is deemed to start on 7 February 2023 in consideration of the time you have already spent in pre-custody.
 29. You are sentenced to 22 months imprisonment which is effective from 7 February 2023.
 30. You have 14 days to appeal this sentence if you are unsatisfied with it. The 14 days starts at the date of this sentence.

DATED at Port Vila, this 9th day of June 2023

BY THE COURT


Vincent LUNABEK
Chief Justice.

