

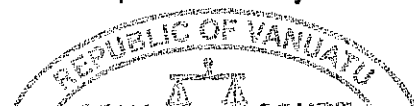
BETWEEN: Public Prosecutor

AND: Vidil Neurove
Defendant

Date: 20th February 2023
By: Justice J P Geoghegan
Distribution: Mr G. Simeon for the Public Prosecutor
Mr L. Moli for the Defendant

SENTENCE

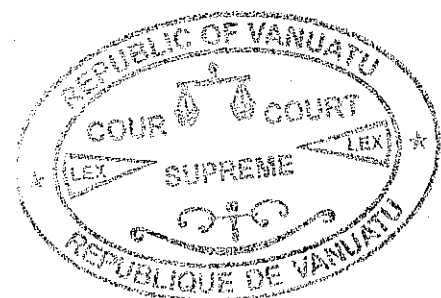
1. Mr Neurove you appear for sentence today on one charge of threatening to kill and one charge of domestic violence. Those charges carry maximum penalties of 15 years imprisonment and 5 years imprisonment respectively.
2. The summary of facts, which has been amended tells me that these incidents occurred in June and April 2019. You were in a relationship with the victim and the information that I have today tells me that you are still in a relationship with her, but you do not live together. She lives in Freshwota and you live in Malapoa in Vila.
3. The brief facts are however that in April 2019, you and the victim got into an argument where you told her that you would kill her and you told her in June 2019 that she opened her vagina for other men to look and that you would cut her body like an eel and throw her into the bush. Those are serious threats, and no doubt were taken seriously by the victim who would have feared for her life.
4. I have received a pre-sentence report and I have read that. That tells me you are 35 years old, and you are from Malekula, that you are in a de-facto relationship with the victim, but you have no children to the victim. You however supported and continue to support it seems, her three children from her previous relationship. You are clearly an intelligent person, you having undertaken courses at the University of the South Pacific for one year but the report tells me you



were not able to continue to do that because of family issues. You were employed by Port Vila Hardware for five years, but that position was terminated this year due to your offending. That seems to me to be a very harsh decision on the part of your employer but that is another issue. Your main ambition in life is to start your own shop business back in Malekula.

5. You have no previous convictions and you are reported to have good family relationships.
6. You pleaded guilty to these offences at the first opportunity. That is obviously something which needs to be considered and you reported saying to the pre-sentence report writer that you knew what you did was wrong, and you regret committing the offence, but what triggered the offending was an argument between you and your partner over some pieces of roofing iron that belonged to you. No contact has been able to be made by the pre-sentence report writer with the victim. The report tells me that you advised the report writer that you performed a custom reconciliation and that was accepted and that consisted of 5 mats and VT2,000. The pre-sentence report refers to you as being motivated to undertake any community based sentence such as supervision or community work and that would enable you to take part in a program that might assist you in regulating controlling your anger, community work is recommended.
7. Both Mr Simeon and Mr Moli have provided submissions which addressed the issue of an appropriate sentence, and for the purposes of sentencing the charge of threatening to kill is the most serious and leading offence. In that regard, I note the previous submissions which referred to you being sentenced today to two charges of domestic violence. That is not correct and both counsel acknowledged that.
8. I also note that the prosecution submissions had referred to a number of aggravating factors which are not in fact aggravating factors in this offending. There was reference to the use of a weapon to assault the victim. That is clearly incorrect. There was reference to an intention to threaten the victim, but that is an essential element of the offence and not an aggravating factor. There are other aggravating factors referred to which are not in fact aggravating factors namely, the fact that you show allegedly no remorse which stands in contrast to the pre-sentence report, and your history of violence against the victim. There is no evidence of your previous history of violence against the victim and that is not a matter which I take into account. You are being sentenced in respect of the two charges that you face today. As well, if they are aggravating features, they are personal to you as opposed to aggravating features which relate to the offending. The two are separate and it is important to recognise that distinction.
9. In any event the prosecution proposes a starting point of 3 years imprisonment. The defence submit that a starting point of 12 months imprisonment is appropriate.
10. The aggravating features in this offending here are that the threat to kill was a serious one made against a vulnerable victim namely your partner. You were not living together at that time. Secondly, the nature of your threat displays a jealous and controlling attitude towards your partner while at the same time demeaning her in respect of what you are accusing her of.
11. What you need to realise that threats to kill can be as psychologically debilitating as a physical assault and sadly in Vanuatu women are acutely aware that a threat to kill is commonly accompanied by physical violence. That is what make threats like this so serious in this country.

12. In terms of assessing a starting point other authorities such as *The Public Prosecutor v. Yasi*¹, *The Public Prosecutor v. Asang*² and *The Public Prosecutor v Sam*³ established that the range is between 12 and 24 months. In *Asang* the starting point was 18 months however I considered that to be a more serious case as it involved actual physical harm and the use of a weapon, the offenders children were also present at the time of the offending. *Public Prosecutor v Malliwan*⁴ was another case and involved a starting point of 16 months in circumstances where the victim was the subject of a prolonged and vicious attack. *The Public Prosecutor v Antama*⁵ is another case which involved a starting point of 15 months in circumstances where the threat to kill was accompanied by physical violence. None of these features are here in your case and accordingly, taking that into account the other issues that I talked about I adopt a starting point of 12 months' imprisonment.
13. Looking at your personal mitigating factors, you are entitled to an allowance of 25% for your guilty plea which equates to 3 months taking into account the fact that you have no previous convictions and you have undertaken a reconciliation ceremony I grant a further allowance of 1 month to allow for those personal mitigating factors which is an end point of 4 months which when deducted from the 12 months starting point reaches a final point of 8 months imprisonment on the charge of threatening to kill. In respect of the charge of domestic violence. That involves similar offending that is quite separate from the leading charge and accordingly, that should attract a cumulative sentence which I determine as 4 months.
14. The result is a sentence of imprisonment of 12 months. I am satisfied that it would be appropriate to suspend that sentence pursuant to section 57 of the Penal Code.
15. This case does not involve physical violence and at the age of 35 years you have no previous convictions. The most significant factor however is that this occurred nearly four years ago and in the intervening four years you have not been charged with any further offences and, as I understand it, you have remained in a relationship with the victim.
16. A sentence of immediate imprisonment would serve no useful purpose despite the need to hold you accountable to denounce your conduct and to deter you and others from acting in this way.
17. Accordingly, I am satisfied that your sentence should be suspended. However, there should be sentences of community work and supervision imposed. They will tend to both the punitive and rehabilitative factors.
18. Accordingly, I am going to impose a sentence of 80 hours community work and 12 months supervision on the standard conditions set out in section 58J of the Penal Code.



¹ [2022] VUSC 135

² [2021] VUSC 187

³ [2022] VUMC 15

⁴ [2018] VUSC 29

⁵ [2018] VUMC 17

19. You are sentenced to 12 months' imprisonment. That sentence is suspended for a period of 2 years. You are sentenced to community work of 80 hours and supervision on the standard conditions in section 58 J of the Penal Code, with that supervision to be for a period for 12 months.
20. In respect of the 12 months' imprisonment, you are sentenced to 8 months on the charge of threatening to kill and 4 months on the charge of domestic violence with that 4-month sentence to be cumulative on the 8 months.
21. I am satisfied that you understand the sentence of a suspended sentence having spoken with you about it and having satisfied myself that you have already spoken to your counsel about it. What that means is that you will not be imprisoned immediately but if you are convicted of any further offence against any Act, regulation, rule or order the Court may order that you serve the suspended sentence, namely 12 months.
22. You have 14 days to appeal this sentence.

Dated at Port Vila this 20th day of February 2023

BY THE COURT


Justice J F Geoghegan

