

PUBLIC PROSECUTOR

v

ALPHIERY BONTARI BURORO

Date: 30 August 2024
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Ms G. Kanegai
Defendant – Mrs C. Dehivanua

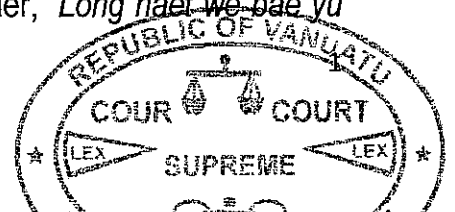
SENTENCE

A. Introduction

1. The Defendant Alphiery Bontari Buroro pleaded guilty to two charges of threat to kill contrary to s. 115 of the *Penal Code* [CAP. 135]. He is convicted on his own pleas and the admitted facts.

B. Facts

2. Mr Buroro is the complainant Lydia John's husband.
3. According to the complainant, Mr Buroro throughout their marriage threatened to kill her many times. On 15 October 2023, she left him and went to stay with her parents because she feared for her life and safety.
4. Mr Buroro continued to threaten her through text messages. On 10 January 2024, he sent her a text message containing the written threat to kill her, "*mbae mi kilim yu ded putum long mind blong yu*" ('I will kill you dead, be sure of that in your mind').
5. The following day, 11 January 2024, Mr Buroro again threatened the complainant. He sent her a text message containing the written threat to kill her, "*Long naef we bae yu*

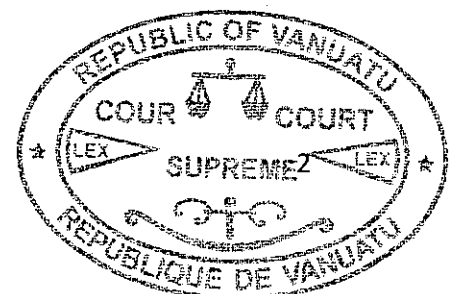


luk fes blong mi be long taem ia nao bae hemi end blong laef blong yu" ('The night that you see my face will be the time that your life will end').

6. These text messages caused the complainant to fear Mr Buroro for her life and safety even more, and made her decide to lodge a complaint.

C. Sentence Start Point and Mitigation

7. The sentence start point is assessed having regard to the maximum sentence prescribed in the law, and the mitigating and aggravating factors of the offending.
8. The maximum penalty for the offence of threat to kill a person is 15 years imprisonment.
9. It is an aggravating factor of the offending that the threat was to the defendant's wife therefore involved a gross breach of trust, as well as the premeditation involved, the repeat nature of the offending, and the fear and trauma caused to the complainant including that she felt that the threats had escalated to the point where the defendant would action his threats because she had left him.
10. There are no mitigating aspects of the offending.
11. The Prosecution submitted that 3 years imprisonment was an appropriate starting point, citing a number of cases including *Tula v Public Prosecutor* [2023] VUCA 59, *Public Prosecutor v Soalo* [2009] VUSC 110, *Public Prosecutor v Iakis* [1994] VUSC 14 and *Public Prosecutor v Tataki* [1994] VUSC 12 which was helpful. The Defence cited *Malau v Public Prosecutor* [2021] VUCA 48 however, as the Prosecution pointed out, the *Malau* case was not relevant as it involved a charge of domestic violence, and only one charge at that.
12. Taking all matters into account, the global sentence start point that I adopt is 3 years imprisonment.
13. Mr Buroro pleaded guilty at the first available opportunity. This has spared the need for his wife to give evidence. Accordingly, one third is deducted from the sentence start point.
14. Mr Buroro is 43 years old, and has no prior convictions. He has two children, aged 13 and 11. He runs his own kava bar business and owns rental houses. His offending is explained in the defence submissions as attempts to get the complainant to return to him and their family home after they had had a period of arguments. The violence and threats involved do not excuse or mitigate the offending in any way. I therefore reject the submissions that he was not in his correct state of mind, had poor judgment and did not mean to harm the complainant.



15. On 27 August 2024, Mr Buroro undertook a custom ceremony with the complainant involving a mat and VT2,000 to her brother and 40 yards of calico and VT2,000 to the complainant which was accepted as compensation made under custom to the complainant: ss 38 and 39 of the *Penal Code*.
16. A further 10% is deducted from the sentence start point for Mr Buroro's personal factors.
17. Mr Buroro was remanded in custody from 12 January 2024 to 8 February 2024, effectively an imprisonment sentence of just under 2 months. A further two months is deducted from the sentence start point.

D. End Sentence

18. The sentencing principles applicable in this case are holding Mr Buroro accountable for his conduct, to denounce the criminal conduct and emphasize public disapproval of such offending, to protect the community, and to deter him and others from acting in this manner in future.
19. Taking all of those matters into account, the end sentences imposed concurrently are 1 year 7 months imprisonment (Charges 1 and 2).
20. The Court has a discretion under s. 57 of the *Penal Code* to suspend all or part of the sentence where it is not appropriate to make an offender suffer immediate imprisonment "... (i) in view of the circumstances; and (ii) in particular the nature of the crime; and (iii) the character of the offender."
21. The offending was serious. However, in view of Mr Buroro's previous clean record, his period of time served in custody, his employment and prospects of rehabilitation, I suspend the sentence for 2 years. Mr Buroro is warned that if he offends again within the next 2 years, he will need to serve the sentences imposed today in addition to any other penalty that may be imposed for the further offending.
22. Mr Buroro is also to undergo 12 months of supervision including attendance at rehabilitation programs, and complete 60 hours of community work.
23. Mr Buroro has 14 days to appeal.

**DATED at Port Vila this 30th day of August 2024
BY THE COURT**


.....
Justice Viran Molisa Trief

