

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

Criminal
Case No. 23/2156 SC/CRML

BETWEEN: Public Prosecutor

AND: Sam Peau
Charley Peau
Defendants

Coram: Justice Aru
Counsel: Mr. T. Karae for the Public Prosecutor
Mr. W. Kapalu for the Defendants

SENTENCE

Introduction

1. Sam Peau and Charlie Peau are appearing for sentencing. Charlie Peau pleaded guilty to a single charge of intentional assault contrary to s 107 (a) of the Penal Code [CAP 135]. Sam Peau pleaded guilty to two counts of intentional assault causing temporary injury contrary to s 107 (b) of Penal Code.

The facts

2. On 28 July 2023 the complainant and his brother-in-law Jacky Siaka were under the influence of alcohol when they boarded a bus to Teuma area to continue with their drinking. After they got off the bus they were walking up a road when they met Charley Peau and his wife. The complainant asked them to forgive him for what he did and they walked on. After walking some distance Jack Siaka turned and looked back and saw Charley Peau running back towards them Jacky told the complainant to run. When they looked ahead, they saw Sam Peau running down towards them with a knife and piece of wood and the assaults began.

Count 1

3. Sam Peau assaulted Jacky Siaka by cutting him with the knife on his hand and Jacky fled the scene.

Count 2

4. Sam Peau also used the knife to cut the complainant near the corner of his left eye and struck him on the head with the piece of wood.

Count 3

5. Charley Peau assaulted the complainant with his hands.
6. Following the assaults, the complainant was left unconscious on the ground and the two defendants fled the scene. Medical examinations later revealed that the complainant suffered left side laceration to his body with swelling and body pain.



Starting point of sentence

Sam Peau

7. The maximum penalty for intentional assault causing damage of a temporary nature is 5 years imprisonment. The assault is aggravated by the fact that you were angry and used weapons (knife and piece of wood) to assault the victims who were drunk and helpless. There are no mitigating factors of the offending.
8. The prosecution submitted that I set a sentence starting point between 7 to 10 months imprisonment. Any assault on a person using a knife or wood to inflict injury is always a serious offending which is why Parliament has set the maximum penalty at 5 years imprisonment. Taking the above factors into account I adopt a concurrent sentence start point of 3 years imprisonment.
9. No Presentence report was filed as directed. Defence Counsel submits that Sam Peau is a first-time offender and is the bread winner in his family. He is also an active member of his community when performing traditional ceremonies. Taking these factors into account the sentence start point is reduced by 12 months. For the late guilty pleas, the sentence start point is discounted by 30 %.

Charley Peau

10. The maximum penalty for intentional assault where no physical damage is caused is 1 year imprisonment. The aggravating factors of your offending are the fact that you were angry and assaulted the complainant who was drunk and helpless. There are no mitigating factors of the offending.
11. The Prosecution submits a starting point of sentence between 4 and 6 months imprisonment. I set the starting of sentence at 10 months imprisonment.
12. No pre sentence report was filed as directed. Counsel submits that Charley Peau is a first-time offender and is the breadwinner in his family. He earns his living by doing seasonal work overseas. Taking these factors into account I reduce the sentence start point to 6 months imprisonment. For the late guilty plea, the sentence start point is discounted by 30 %.

End Sentence

13. Sam Peau you are sentenced to a concurrent end sentence of 16 months imprisonment. The sentence is suspended for a period of 12 months. Should you reoffend during this period your sentence will be reactivated to be served in custody.
14. Charley Peau you are sentenced to an end sentence rounded off to 4 months imprisonment which is also suspended for a period of 12 months. Should you reoffend during this period you sentence will be reactivated to be served in custody.
15. You both have 14 days to appeal should you disagree with the decision.

DATED at Port Vila this 11 day of September, 2024
BY THE COURT

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Dudley Aru
Judge

