

CF

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

**Criminal
Case No. 23/3476 SC/CRML**

BETWEEN: Public Prosecutor

AND: Abel Kaloris & Esley Kaltaf
Accused

Date of Sentence: 4th day of March 2024

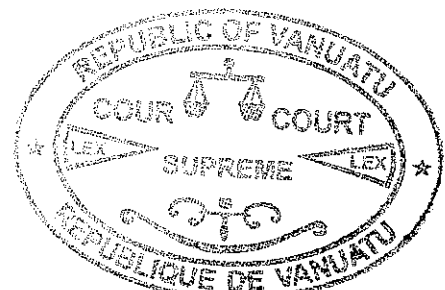
Date of Delivery: 6th day of March 2024

Before: Justice E.P. Goldsbrough

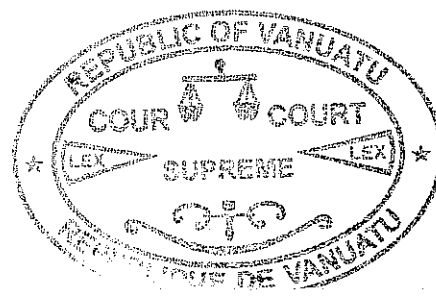
In Attendance: Tete, J for Public Prosecutor
Kalsakau, F, L for the Defendant

SENTENCE

1. Abel Kaloris and Esley Kaltaf have both pleaded guilty to assault causing temporary injury on 14 October 2023. Their victim was Juliar Kileteir. He was walking home from a store when he came across these two men. He did nothing to provoke this violent assault on him. He had known one of the two men to be an enemy from his area but not the other.
2. The assault involved punches to the mouth and face by Abel Kaloris and kick to the ribs when he was floored by Esley Kaltaf. After trying to move to get home after the attack, the victim lost consciousness. He was saved by a passer-by who managed to get a message to the victim's family to come and collect him. He received medical treatment at the Vila Central Hospital for his injuries.
3. The two offenders were arrested and have spent some time in custody pending trial. That custody ended when they were both released on bail on 12 December 2023. As it was said to have begun on 31 October 2023 that pre-sentence custody was 43 days.



4. The maximum penalty for assault causing temporary injury is imprisonment for five years. That maximum penalty together with the facts of the offending helps the Court to fix a starting point for the sentences which must be imposed.
5. This was a violent and unprovoked assault for which no reason has been put forward. It was made worse as two men took part in it as against one victim. The injuries included unconsciousness, bleeding at the mouth and difficulty in eating and difficulty in breathing with damaged or swollen ribs. The ribs were injured after one of the two assailants put the victim on the ground and then kicked him with his booted feet.
6. A starting point of two years imprisonment is fixed.
7. Other factors personal to the offenders which go to make the offence less serious need to be taken into account. There has been a guilty plea at an early opportunity. There does not appear to have been any customary reconciliation undertaken by either of the offender, although the wider family have been attempting some reconciliation between families. The victim says that he has received nothing by way of customary compensation. The defence say that he has received calico, mats, and VT 5000.
8. The pre-sentence report suggests that they may be other offences coming into another court at some point for at least one of these two offenders. Concerns are expressed that both of these two offenders have behaved in a way which has caused concern among their neighbourhood, but the chief is still prepared to support them and suggests that he could find plenty of work for them if a community based sentence is imposed.
9. Neither offender has previous convictions, and both have spent a short time in custody, so they know what it means now to be imprisoned, even if it was but a short time. The period of pre-sentence custody was from 31 October 2023 to 12 or possibly 15 December 2023.
10. Both are relatively young but should not be described as juveniles as they are both over the age of 18. That and the lack of previous convictions can be taken



into account when considering the term of imprisonment and whether that term of imprisonment may be suspended

11. A reduction in the end sentence of 33% is appropriate to reflect the guilty plea and a further 7% for the other personal factors. That reduces the end sentence to a little over 14 months. That part over 14 months may be deducted to reflect the time already spent in pre-sentence custody.
12. Considering the nature of the offence and the character and antecedents of the two offenders, the Court considered that it is not necessary to send them both to prison immediately but that the sentence may be suspended.
13. Each of these two offenders is sentenced to fourteen months imprisonment suspended for one year. In addition, they will each perform 100 hours of unpaid community work. The suspended sentence means that they do not go directly to prison today but will be liable to go to prison if further offences are committed within the next year. Unpaid community work must be satisfactorily completed within the next twelve months under the supervision of the Probation Service. If it is not, they can be brought back and dealt with differently.
14. There is a right of appeal against this sentence but that right must be exercised within the next fourteen days.

DATED at Port Vila this 6th day of March 2024.

BY THE COURT

E.P. Goldsbrough

.....
E.P. Goldsbrough

Judge of the Supreme Court

