

**PUBLIC PROSECUTOR**

**V**

**MOE KORIKALO**

Date of Plea: 21 October 2024  
Date of Sentence: 28 November 2024  
Before: Justice M A Mackenzie  
In Attendance: Public Prosecutor – Mr K Massing (Holding papers for Ms R Siri  
Defendant – Ms J Tari holding papers for Ms C Dehinavanua

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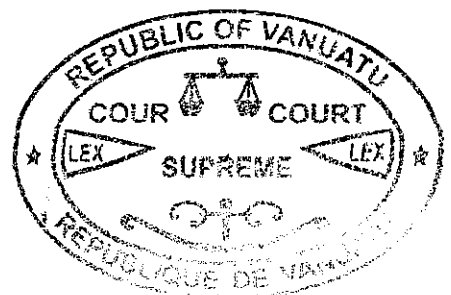
**SENTENCE**

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1. Mr Moe Korikalo, you appear for sentence in relation to 4 charges of domestic violence contrary to sections 4 and 10 of the Family Protection Act. The maximum penalty for domestic violence is 5 years imprisonment and/or a fine not exceeding VT 100,000.

**The Facts**

2. The victim is your wife of 30 years. You both live in Mele Village. On 2 separate occasions in 2023, you were physically and verbally abusive to your wife.
3. On the first occasion in October 2023, your wife was living with relatives in Mele. You slapped her and were verbally abusive to her because she was trying to hide from you. The second occasion was on Christmas Day 2023. At about 4am, you went to the property your wife was staying at. You were intoxicated. You were swearing. The victim tried to hide in the house. You approached her and punched her backside. You then grabbed her dress and tore it off your wife so that she was left with only her bra on.



4. Under caution, you admitted to police that in October 2023 you assaulted your wife and uttered profanities. You also admitted that you tore your wife's dress on 25 December 2023.

#### **Purposes/principles of sentencing**

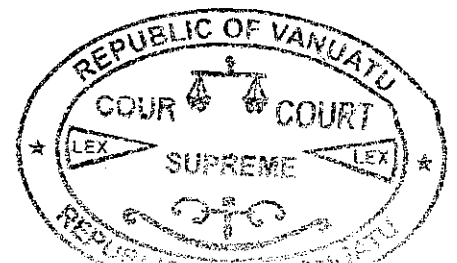
5. The sentence I impose must hold you accountable and must denounce and deter your conduct. The sentence should ensure you take responsibility for your actions and help you to rehabilitate. It must also be generally consistent.

#### **Approach to sentence**

6. Sentencing involves 2 separate steps; *Jimmy Philip v Public Prosecutor* [2020] VUCA 40, which applied *Moses v R* [2020] NZCA 296.

#### **Starting point**

7. The first step is to set a starting point, taking into account the aggravating and mitigating factors of the offending and with reference to the maximum penalty for the offences. I consider that a global starting point is appropriate given that both incidents victim is similar involve the same victim, and similar offending: *Kalfau v Public Prosecutor* [1990] VUCA 9.
8. The aggravating factors are:
  - a. The breach of trust, given that the victim is your wife.
  - b. There were 2 separate incidents.
  - c. On both occasions, the domestic violence included controlling and belittling behaviour- seeking her out, verbal abuse and physical violence.
  - d. The December incident was humiliating because you tore the victim's dress, leaving her in her underwear which others saw.
  - e. The psychological harm to your wife, as detailed in the pre-sentence report, is significant. She has post-traumatic stress disorder. Your actions have caused her to feel vulnerable and scared that she will be fatally harmed by you.
9. There are no mitigating features of the offending itself.
10. Based on the aggravating factors and cases referred to in written submissions, the prosecutor submits that the appropriate starting point is between 20 months and 21/2



years imprisonment on a global basis. As the prosecutor acknowledges, the offending in the cases cited in the written submissions is more serious than the present case. The starting point adopted in *Public Prosecutor v Peter* [2024] VUSC 72 was 2 years imprisonment for a single incident of domestic violence involving an assault. On the other hand, the starting point adopted in *Public Prosecutor v Malsrake* [2021] VUSC 343 for more serious violence was 2 1/2 years imprisonment.

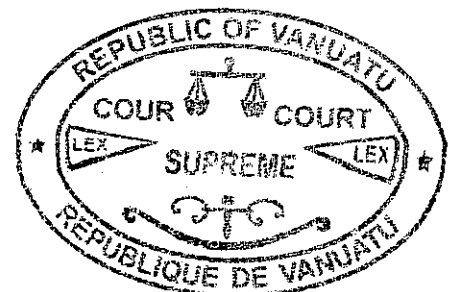
11. Your lawyer did not file any submissions as to sentence.
12. Taking the aggravating factors into account, together with the cases I have just referred to, I adopt a global starting point of 18 months imprisonment. The starting points in the cases are not easy to reconcile, but the starting point should be less than that adopted in *Malsrake* given that the present case is less serious.

### **Step Two -guilty plea and personal factors.**

13. You did not plead guilty at an early opportunity to all 4 charges. You entered guilty pleas to 2 charges of domestic violence initially and not guilty to 3 other charges. There was a resolution and you then entered pleas of guilty to the domestic violence charges relating to the December incident. This was some way down the track. The case against you was strong, particularly in relation to the December incident which was witnessed by others. You are not then entitled to a full reduction for plea. The sentence is reduced by 20 % for the guilty plea, which is 3.5 months.
14. You are aged 56 years, and a first offender. You are from Mele. You and your wife have 4 children. Of note, those interviewed for the pre-sentence report do not hold you in high regard. The common theme is your poor behaviour when you consume alcohol, and your lack of insight about your behaviour when you drink. Of concern, is the minimisation of your actions, saying that your wife had not listened to you. There has not been a custom reconciliation with your wife. You have performed a custom ceremony with your wife's brothers, however. But they are not the people you need to be apologising to. It is your wife.
15. Taking into account that you are a first offender, the sentence is reduced by 1 month, which is approximately 5 percent.
16. According to the pre-sentence report, you were remanded in custody for 14 days, from 28 December 2023- 11 January 2024, an effective sentence of 1 month's imprisonment. The sentence is reduced by one month for that factor.

### **End sentence**

17. The end sentence is 12 ½ months imprisonment, on a global basis to be imposed on each charge of domestic violence concurrently.



18. I am asked to suspend the sentence. The prosecutor does not appear to oppose this but submits that supervision should also be imposed if the sentence is suspended. Under s 57 of the Penal Code, I must have regard to the circumstances, the nature of the offending and your character. This is concerning domestic violence, involving physical and verbal abuse and controlling behaviour. I also take into account that you are a first offender and have support from your chief. I will step back from an immediate imprisonment sentence given you are a first offender and have the support of your chief. Suspending the sentence, in combination with supervision will meet the need for accountability, deterrence and denunciation.
19. The sentence is to be suspended for 2 years. You are warned that if you are convicted of any offence in the next 2 years, that you will be taken into custody and serve your sentence of imprisonment as well as the penalty for the further offending.
20. In addition, you are sentenced to 2 years supervision to assist with your rehabilitation. All the evidence points to you having a serious alcohol problem, and a serious issue as to your attitude towards your wife. I predict that you will be back before the Court if you do not take this seriously and take steps to rehabilitate yourself.
21. You have 14 days to appeal.

**DATED at Port Vila this 28th day of November 2024.  
BY THE COURT**

*M A MacKenzie*  
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Justice M A MacKenzie

