

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

Case No. 21/2543 MC/PRIN

PUBLIC PROSECUTOR

V

PAUL YAKAVI

Date of Sentence: 17th December, 2021

Before: Magistrate FSam

In Attendance: Mr Simeon_G for the Public Prosecution

Mr Melsul_R for the Defence & Defendant.

Copy: The Public Prosecution, The Public Solicitor, Defendant.

SENTENCE

Introduction

1. On the 29th of October, 2021, the defendant Mr Paul Yakavi had pled guilty to 1 count of Domestic Violence against him, wherefrom the Court had recorded as his guilty plea.

2. Having considered the defendant admitting the summary of facts presented by the Prosecution, as well as his guilty plea, he is convicted of the charge of domestic violence accordingly.

Facts

3. On the 30th of July, 2021, around 16:30 hours to 17:00 hours of the 19th the defendant threatened to assault the victim who is his wife, after seeing an unknown man running out of their house, and he had assumed the victim knew the



person, so the defendant forced and threatened the victim with a knife in his possession, to admit she knew the person, and where it led to the defendant chasing the victim out of the house with the knife. The victim reported the matter to her father (Chief David Cook) who is the complainant in this case, who then reported the matter to the police.

Sentencing Starting Point

4. Because there is no mitigating factors to the offending, consideration is made to the maximum penalty of the offence of domestic violence and aggravating factors to the offending to set an appropriate starting point.

5. The maximum penalty for domestic violence is a maximum prison sentence of 5 years or VT100, 000 or both.

6. The accepted aggravating factors to the offending include:

- There was use of weapon (small knife);
- There was a serious breach of trust in the relationship;
- The offending took place at home where children were present;
- The offending was repetitive in nature;
- The offending were unprovoked;
- The victim was a woman and a vulnerable victim to the assault caused upon her body.
- The defendant's actions caused fear to the victim.

7. I consider the case of *Malau v PP* [2021] VUCA 48, cited by Prosecution, and I make my conclusion to set a starting point of 12 months.

Mitigating Factors and Guilty Plea

8. In mitigation, I consider first his guilty plea, and he is awarded a one third deduction for that.



9. I also take note of his personal mitigating factors and his clean history, or no prior conviction, and make 1 month deductions thereof.

10. I make further deductions of 2 months for his pre-custody.

End Sentence

11. The end sentence therefore is 5 months imprisonment.

Suspension

12. In considering suspension of sentence, I consider that the defendant has reconciled with the victim and complainant in this case, and sending him to an immediate prison sentence would be a harsh penalty, given he has already served over 2 months prior detention, and that is considered punishment enough for this defendant.

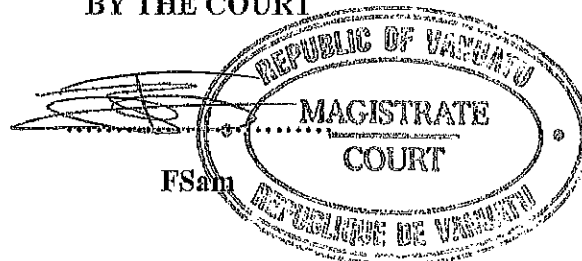
13. I therefore suspend his sentence for a period of 1 year. This means the defendant shall not be imprisoned, but he is ordered to be of good behavior as well as he is warned not to reoffend within the suspended period, because in the event he does reoffend, suspension of sentence will be uplifted and he must serve his sentence accordingly.

14. This sentence serves as deterrence to every like-minded offender, and to allow the defendant a chance to rehabilitate.

15. The defendant has 14 days to appeal this sentence if she is not happy with it.

DATED at Port Vila, this 17th day of December, 2021.

BY THE COURT



Magistrate