

IN THE MAGISTRATE COURT OF

Criminal Case No. 22/1 MC/CRML

THE REPUBLIC OF VANUATU

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

v

JAMES TERRY

Date: 4 January 2022

Before: Magistrate P. Toaliu

Counsel: Public Prosecutor – Mr. M. George

Defendant – In person

SENTENCE

A. Introduction

1. Mr. Terry pleaded guilty to a single charge of Intentional Assault contrary to section 107(b) of the Penal Code [CAP 135].
2. Mr. Terry accepted the summary of facts and was accordingly convicted on his own plea and the admitted facts.

B. Facts

3. This offending was committed on 5th September 2020.
4. Mr. Terry was the complainant's neighbor then and as the complainant and his friends were making so much noise, Mr. Terry and his son went over to ask them to keep the noise down and lower their loud music.
5. While the defendant's son was talking to the complainant, Mr. Terry who was standing beside his son punched the complainant once on his lip with his fist.
6. The complainant suffered a laceration of 0.05CM in length on his lower lip as a result.
7. He was arrested and cautioned on 23rd October 2020.



C. Sentence Start Point

8. The sentence start point is to be assessed by having regard to the maximum sentence available for this offending, and factoring in both the aggravating and mitigating aspects of the offending.
9. The maximum sentence for intentional assault causing temporary injury is 5 years imprisonment.
10. The offending is aggravated by the following:
 - The defendant is a chief and could have taken a more appropriate approach in dealing with the issue;
 - The complainant sustained a laceration on his lip.
11. There are no mitigating aspects to the offending.
12. I adopt a starting point of 12 months imprisonment.

D. Personal Factors

13. A custom reconciliation ceremony was performed by the defendant towards the complainant. An exchange of root crops, mats and cash was made as part of the ceremony.
14. There was unreasonable delay to have this case finalized.

E. Guilty plea

15. The defendant pleaded guilty at the first available opportunity. He therefore is entitled to a full 1/3 discount.

F. End sentence

16. The end sentence I impose is a fine of 2,000VT and a prosecution cost of 1,000VT.
17. Mr. Terry has 14 days to appeal the sentence.

Dated at Port Vila this 4th day of January 2022

BY THE COURT

P. Toaliu

Magistrate P. Toaliu

