

**PUBLIC PROSECUTOR VS- KALOMOR KANAS**

**Coram:** *Mr. Justice Oliver A. Saksak*

**Counsel:** *Laura Lunabek for Public Prosecutor*  
*Lorenzo Moli for Defendant*

**Date of Plea:** *3<sup>rd</sup> April 2018*

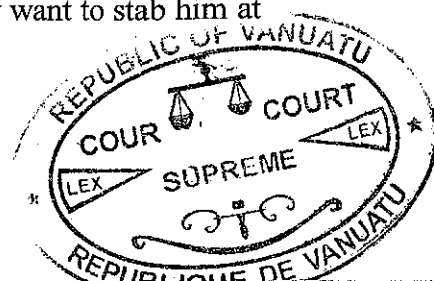
**Date of Sentence:** *22<sup>nd</sup> May 2018*

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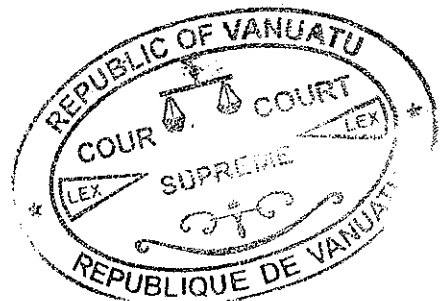
**SENTENCE**

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1. Kanas Kalomor, you are here for sentence today for having pleaded guilty to one count of threats to kill contrary to section 115 of the Penal Code Act [ Cap. 135]. You were also charged with attempted intentional assault contrary to sections 28 and 107 (a) of the Act, to which you also pleaded guilty.
2. Threats to kill is a serious offence because it carries a maximum penalty of 15 years imprisonment. Intentional assault under section 107 (a) of the Act carries a maximum penalty of 3 months imprisonment.
3. The incidents occurred at about 10:00am on 14<sup>th</sup> January 2013 at Undine Bay Plantation where both you and the complainant were working. Wilson Demas was the complainant. While you were talking to your boss John Massinger, Wilson Demas came around and spoke with you. An argument broke out. You got angry and lost your self-control. You spoke harshly to him and threatened to stab him with a sharp instrument used for extracting copra called a cupra. You ran towards the complainant with the sharp instrument in your hand and threatened to stab him with it. You stopped short of doing that.
4. The complainant feared for his safety. He reported the incident to the police some 3 days later. The police took your statement under caution in which you admitted your actions but said you just wanted to scare him off and did not really want to stab him at the time.



5. In considering your appropriate punishment I have had the benefit of reading the written submissions filed by the Prosecution and by Defence Counsel. There is no pre-sentence report.
6. All cases of threats to kill differ in their facts and circumstances. The Prosecutor referred to cases of PP.v. Enaung [2017] VUSC 17, Walker.v. PP [2007] VUCA 12 and PP.v. Willie [2015] VUSC 14. All these cases were more serious in nature than your case.
7. Defence Counsel submitted the cases of PP.v. Tasso [2006] VUSC 24, PP.v. David [2015] VUSC 18 and PP.v. Vano [2015] VUSC 101. Again in my view those cases differ in that they were more serious than your case.
8. Sentencing in those cases were custodial sentences but with suspensions. Community work orders were were issued by the Court in the cases of Tasso and David.
9. Clearly from the Walker case the Court must consider imposing a sentence that reflects the seriousness of the offence. And certainly the Court must apply the principle of proportionality as established in PP.v. Kalosil and others [2015] VUSC 149.
10. Applying those principles I am of the view your offending falls on the lower to mid-range of this scale of offending. I treat the attempted intentional charge as an aggravating feature only and there will be no separate sentence imposed on you for that charge.
11. Taking the offence and the aggravating features together, I consider that the appropriate starting sentence for the charge of threats to kill is 2 years imprisonment.
12. In mitigation I take into account your clean past record and that you are a first time offender, your reconciliation with the victim showing remorse and your good cooperation with the police. I deduct 12 months leaving the balance at 1 year or 12 months.



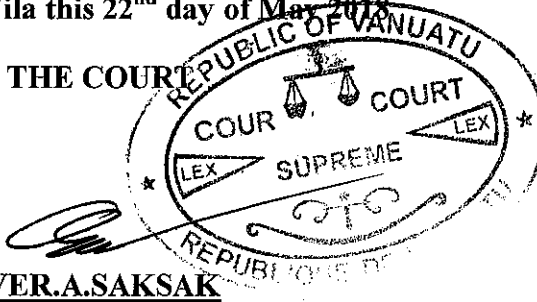
13. For your early guilty plea. I deduct 1/3 for the 12 months leaving the end sentence at 8 months imprisonment. That is your end sentence.

14. However I consider that I should suspend your end sentence for a period of 2 years from the date hereof. This suspension is made under section 57 of the Act. This means that you must be of good behaviour and must not reoffend by committing this offence, or any other offences within the next 2 years for which you would be charged and convicted. If you do, you will go to prison to serve your 8 months sentence.

15. That is the sentence of the Court. You may appeal against this sentence within 14 days if you do not agree with it.

**DATED at Port Vila this 22<sup>nd</sup> day of May 2018**

**BY THE COURT**



**OLIVER.A.SAKSAK**

**Judge**