

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

**Criminal
Case No. 19/2095 SC/CRML**

PUBLIC PROSECUTOR

V

FERNANDO HUNGAI

Date of Sentence: 27th day of September, 2019 at 8:00 AM
Before: Justice Stephen FELIX
In Attendance: Damien BOE from Public Prosecutor
Jane Tari ARU from Public Solicitor

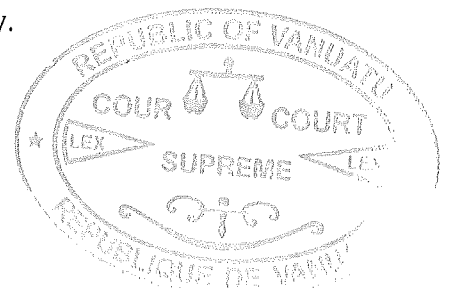
SENTENCE

INTRODUCTION:

1. Mr. Fernando Hungai, you have been charged with one Count of Intentional Assault causing permanent injury contrary to Section 107 (c) of the Penal Code Act ; and one Count of Domestic Violence contrary to Section 4 (1) & 10 (1) of the Family Protection Act.
2. You were arraigned on the 24th of September 2019, and you pleaded guilty to both of these Counts.

BRIEF OF FACTS:

3. On the 3rd of June 2019, around mid-night, at Aronquaratu Village, North Pentecost, you went into the house where your defacto partner was in and assaulted her using a bush knife.
4. The victim was flown to Port Vila the next day for medical attention and treatment.
5. The medical report reveals that the victim had sustained severe injuries of permanent nature to different parts of her body.



6. You admitted the assault to the Police on the 3rd of June 2019.
7. You were charged and remanded in Custody in Luganville Santo since 13th June 2019.
8. Your report to the Court by the Probation Service reveals that you had wanted to kill the victim just out of anger and to release your stresses and worries stemmed from your partner's unfaithfulness to you.

STARTING POINT:

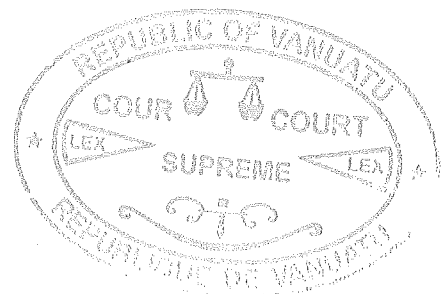
9. The maximum penalty prescribed by law for the first count is 10 years imprisonment and for the second count is 5 years imprisonment or VT 100.000 fine or both.
10. Mr Fernando Hungai, I have considered the submissions from both, the Prosecution and the Defence and decide that your very violent conduct towards your defenseless defacto partner in the middle of the night was intentional and planned and resulted in causing very serious injuries and of permanent nature to the body your partner.
11. I am therefore of the opinion that the appropriate starting point for the 2 offending are 7 years imprisonment for the first Count and 1 year imprisonment concurrent with count one for the second Count or a total starting point of 7 years imprisonment.

MITIGATING FACTORS:

12. I consider the followings as mitigating factors :

For your cooperation with the Police throughout the investigation, your clean previous records, your expression of remorse and the custom reconciliation ceremony, I deduct a total period of 3 months from the 7 years imprisonment.

For your early guilty pleas, I further deduct a period of 2 years and 3 months.

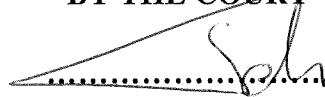


CONCLUSION:

13. You are therefore sentenced to an end sentence of 4 years and 6 months imprisonment backdated to the 13th of June 2019 which is the date you were first incarcerated.
14. I consider also that the circumstances in this case do not allow for any suspension of the sentence.
15. You have 14 days to Appeal.

DATED at Port Vila this 27th day of September, 2019.

BY THE COURT



Stephen Felix
Judge

