

BETWEEN: Public Prosecutor

AND: Lasari Hinge
Defendant

Date: 23 June 2020
By: Justice G.A. Andrée Wiltens
Counsel: Ms M. Tasso for Public Prosecutor
Mr C. Leo for the Defendant

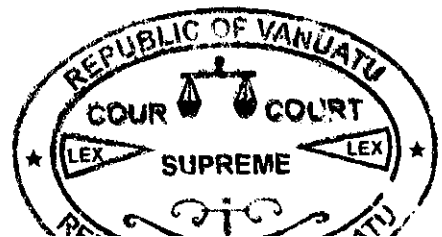
SENTENCE

A. Introduction

1. Ms Hinge pleaded guilty to a charge of intentional assault causing death. The maximum sentence for such offending is a term of 14 years imprisonment

B. Facts

2. Ms Hinge, 29, was in a de facto relationship with Kenny Abel, 27. They had been together since 2015, and they had one daughter, 2 years old at the time of the offending.
3. At the end of 2019 the family moved from Beverly Hills in Port Vila to Pentecost Island.
4. From the start of their relationship, Ms Hinge suffered domestic violence at Mr Abel's hands. He was very controlling, and became angry if she socialised with family members or went out without informing him.
5. At times he cut off all her hair – at other times he assaulted her and she had to go to hospital for medical attention. Often that was when Mr Abel was under the influence of alcohol/cannabis.
6. Ms Hinge tried numerous times to leave the relationship, but Mr Abel threatened her to kill her sisters/uncle if she did so. In 2017, she took out a Protection Order against Mr Abel.



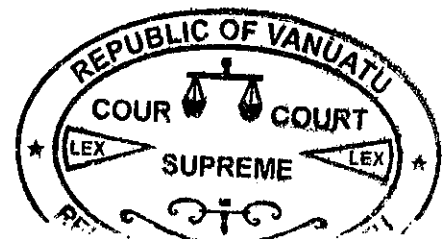
7. On 29 November 2019, Ms Hinge went to the airport with a cousin to check on an expected parcel, but without success. Ms Hinge went home at around lunch time, and she was opening a small can of tinned tuna with a 22cm long small-handled knife from the kitchen.
8. An argument with Mr Abel started. It became heated. In the course of the argument, Ms. Hinge stabbed Mr Abel once on the left side of his back. He cried out and lurched outside; and a neighbour heard. The neighbour saw Mr Abel walking out of the house wearing only shorts and clutching his back. Ms. Hinge was following, still holding the knife. She used a hedge to wipe some blood off her hand.
9. The neighbour tried to assist Mr Abel. He called two times to Ms Hinge to find a truck, but Ms Hinge did not respond or seem to know what was happening.
10. The neighbour plus another put Mr Abel on a truck to take him to the hospital. He died shortly after the arrival, due to severe left Haemothorax, partial transection of the thoracic Aorta caused by a stab wound of the back. The stab wound was on the left side of the mid-back area with a horizontal lie. It measured 16mm x 6mm x 110mm.
11. After being cautioned by the police following her arrest, Ms Hinge remained silent.

C. Aggravating Factors

12. It is an aggravating factor that a weapon was used in the assault. That is the only aggravating factor to this offending.

D. Mitigating Factors

13. It is accepted by the prosecution that the deceased administered domestic violence to Ms Hinge on a prolonged and continuous basis. He was controlling, resorted to humiliation in cutting off all Ms. Hinge's hair, and assaulted her which often left her bruised and occasionally resulted in her having to receive medical treatment in hospital. Ms Hinge can be fairly described as a "battered wife."
14. The incident which resulted in Mr Abel's unfortunate and untimely death followed a domestic dispute between the couple which became heated. Ms Hinge, by sheer coincidence, was then holding a small kitchen knife for use in the preparation of a lunch time meal for her 2 children. It is not the case that Ms Hinge picked up the knife with the deliberate intention of using it to cause harm to Mr Abel.
15. Ms Hinge told the PSR writer that the dispute escalated to the point where Mr Abel commenced to punch her to the head. She reacted to that by flinging her arm back behind her, which resulted in the knife she was holding stabbing Mr Abel in the back. There was only one blow. Unfortunately it proved fatal. Had the stab been elsewhere, the likelihood is that Mr Abel may have been injured, but not fatally.
16. Ms Hinge's explanation to the PSR writer is entirely plausible. I will sentence her on the basis that she was provoked to strike out in the manner described.



E. Sentence Start Point

17. This case is not in the same range of criminal culpability as *Remo Lava & Others v. PP* Court of Appeal Case 20/940 or *PP v. Ierongen* [2002] VUCA 34.
18. The start point that I adopt is one of 3 years 6 months imprisonment.

F. Personal Factors

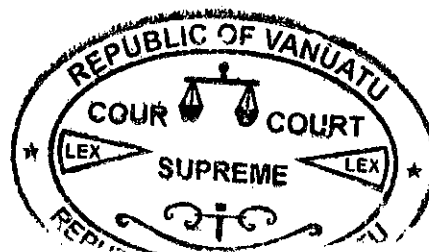
19. Ms Hinge is 30 years old, the mother of 2 young daughters – one born from a previous relationship, and a 2 year old girl from her relationship with Mr Abel.
20. She runs a shop – a small canteen store. She also has skills in traditional Pentecost weaving, as well as computing and accounting.
21. She has no previous convictions.
22. She has performed a custom reconciliation ceremony with Mr Abel's family in Pentecost to the value of VT 65, 000. A second such ceremony is planned in Port Vila.
23. She is remorseful, and fully realises that she have to bear the consequences of what occurred for the rest of her life, even though she did not intend for it to occur.
24. Mr Abel's mother is of the view that what occurred was a mistake. She has forgiven Ms Hinge.
25. For these personal factors, the sentence start point is reduced by 10 months.
26. As well, as earlier described, Ms Hinge was a battered wife. Her criminal culpability for reacting to such provocation as set out is accordingly significantly diminished. For this factor I further reduced the sentence start point by 12 months.

G. Plea

27. Ms Hinge pleaded guilty at the earliest available opportunity. The maximum discount available for that is up to one-third of the sentence. However, in this case, the evidence against Ms. Hinge was overwhelming. Not only did she make immediate admissions but there was the neighbour as an eye-witness to the immediate aftermath with Ms Hinge holding the lethal weapon. She really had little option but to plead guilty.
28. In these circumstances the early plea warrants a discount of 20%.

H. End Sentence

29. The end sentence imposed is accordingly a term of 15 months imprisonment.



I. Suspension

30. Unusually, I am prepared to suspend Ms Hinge's entire sentence. I do not consider there is any great risk of further offending. She has the sole responsibility now of caring for two young children. She has excellent prospects of rehabilitation back into the community. She is remorseful for what occurred and has demonstrated such with participation in the custom reconciliation ceremony. In her case, the usual sentencing principles of holding her accountable for her actions and deterrence are of less significance than the desirability of Ms Hinge's rehabilitation.

31. Accordingly, Ms. Hinge's sentence is suspended for 2 years. She needs to remain offence-free for 2 years to ensure the sentence is not activated.

J. Others

32. Ms Hinge has 14 days to appeal this sentence if she disagrees with it.

Dated at Port Vila this 23rd day of June 2020
BY THE COURT

G.A. Andree Wiltens
Justice G.A. Andree Wiltens

