

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

**Criminal
Case No. 20/1422 SC/CRML**

BETWEEN: The Public Prosecutor

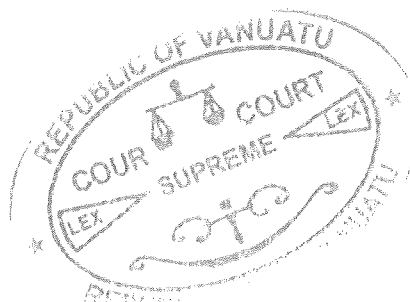
AND: Fling Sine

Defendant

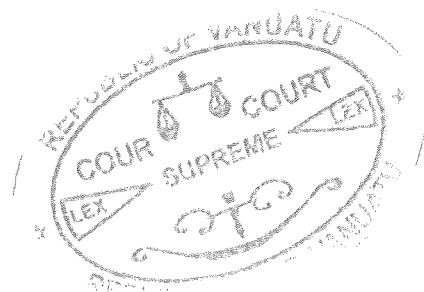
Date of Plea: 20th July 2020
Date of Sentence: 17th September 2020
Before: Justice Oliver Saksak
In Attendance: Mr Damien Boe for Public Prosecutor
Mr Steven Garae Junior for Defendant

SENTENCE

1. Fling Sine entered guilty pleas before Wiltens J on 20th July 2020 in Luganville but a Newton Hearing was necessary because he disputed the fact that a baton was used. It was adjourned for that purpose and the defendant had been allowed bail to travel to Pentecost for a hearing to be held there.
2. The defendant was brought over by boat yesterday by a Police Officer and the Prosecutor and Defence Counsel who braved the winds and very rough seas to bring the defendant to Saratamata from Laone, North Pentecost. These officers are highly commended for their commitment and sacrifices.
3. When the case was called for mention again at 5:00pm yesterday (16/06/20). Mr Boe informed the Court there was no need for a Newton Hearing. The disputed facts were simply agreed and removed from the Brief of Facts in paragraphs 1, 2, and 3. These were confirmed and agreed to by Mr Garae. The balance of the facts were agreed. The defendant maintained and confirmed his guilty pleas entered on 20th July 2020.
4. He pleaded guilty before Wiltens J to one count of threats to kill contrary to section 115 of the Penal Code Act [CAP 135], and to 2 Counts of Domestic Violence contrary to sections 4 (1)(a) and 10 (1) of the Family Protection Act No. 28 of 2008.




5. These are serious offences. Threats to kill carries a maximum penalty of 15 years imprisonment and domestic violence attracts a maximum of 5 years imprisonment or a fine of not exceeding VT 100.000 or to both.
6. There are 2 complainants. Leahy Lillii from Lavatu Village, North Pentecost is 16 years old and attends Atavtabanga Junior Secondary School. She is the defendant's niece. The other victim is Serah Hinge from Agatoa Village. She is 15 years old. She is related to the defendant. Between May and December 2019 when the victims were living in the care of the defendant as well when his defacto partner was away in Vila, he assaulted Leahy Lillii and Serah Hinge and threatened to kill them. The reason for doing so was that he was angry when he heard the girls talking to some boys. He did not want to see them get into trouble.
7. There was a breach of trust. And the acts were repeated. They were done out of anger instead of love. Taking the totality of the circumstances of the offendings, I set the starting sentence as follows-
 - a) For threats to kill as the lead offence Count 1- a sentence of 3 years imprisonment.
 - b) For domestic violence - Count 2 - a sentence of 1 year concurrent, and
 - c) For domestic violence- Count 3- a sentence of 1-year imprisonment concurrent.The total concurrent sentence shall be 3 years imprisonment.
8. In mitigation I allow 1/3 reduction for guilty plea. I reduce his sentence by 1 year. The balance is 2 years imprisonment.
9. I consider his personal factors. He has no previous criminal record. He is 28 years old living in a defacto relationship with 5 children. One of the children is in class1, 2 are in kindergarten and 2 are still at home. He is a subsistence farmer. His wife and children are highly dependent on him. He offered to perform custom reconciliation but was refused. He spent 28 days in custody on remand.
10. I allow a further deduction of 6 months for his mitigating and personal factors. His end sentence is therefore 1 year and 6 months imprisonment.
11. Both the Prosecutor and Defence Counsel submitted that due to the circumstances, the nature of the offences charged and the character of the defendant that his sentence of imprisonment should be suspended.
12. I agree. I therefore suspend the end sentence of 1 year 6 months for a period of 2 years under section 57 of the Penal Code Act. This means the defendant must be of good behaviour and must not reoffend or commit any other criminal offences for which he would be charged and convicted. If he does, he will be sent to prison for 1 year and 6 months.



13. In addition, I sentence the defendant to 100 hours of community service to be performed back in his community within 12 months. This is imposed under section 58N of the Penal Code Act.
14. There is a right of appeal against this sentence within 14 days if the defendant does not agree with it.

**DATED at Saratomata this 17th day of September 2020
BY THE COURT**


OLIVER.A.SAKSAK
Judge

