

**PUBLIC PROSECUTOR**

**V**

**STANLEY IATA**

**Defendant**

***Date of Plea:*** 8<sup>th</sup> December 2020  
***Date of Submissions Hearing:*** 5<sup>th</sup> February 2021  
***Date of Sentence:*** 18<sup>th</sup> February 2021  
***Before:*** Justice Oliver Saksak  
***In Attendance:*** Mr Philip Toaliu for Public Prosecutor  
Mr Mark Hurley and Mr Gordon Avock for the Defendant

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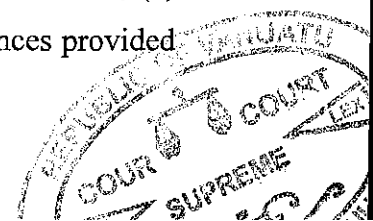
**SENTENCE**

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1. The defendant Stanley Iata pleaded guilty to one count of intentional assault causing death on 8<sup>th</sup> December 2020. He is appearing today for sentence.
2. Under section 107 (d) of the Penal Code Act, this offence carries the maximum penalty of 14 years imprisonment.
3. The facts are simple. On 19<sup>th</sup> September 2020 the defendant and his friends started drinking at the cricket ground at Korman stadium in the early afternoon. In the evening he and his friends attended the Electro Night Club in town.
4. The deceased, Jeremiah Noel too had been drinking with some friends that day and they too ended up at the same night club.
5. All went well until around 3:15am when an argument arose between the defendant's colleague Nemani Gislapno and the deceased. The argument subsided and the deceased had apologised to Nemani. It was then the defendant punched the deceased once on his face. As a result the deceased fell backwards and hit his head against the floor.

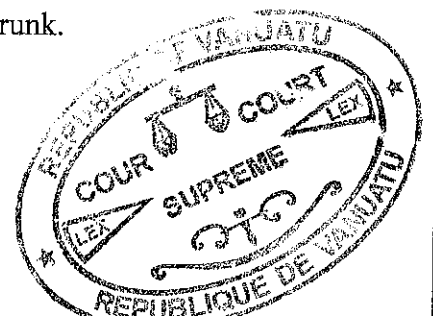


6. Gishlene Najenmal had witnessed all that happened. She alerted a security officer who came along with another person by name of Thomas Cyriaque. They tried lifting the deceased but he could not move. There was blood flowing from his head, mouth and nose.
7. The deceased was moved by security officers down the stairs and left by the Drug Store. He was later taken to hospital that morning at around 4:00am.
8. The assault and all that followed were captured on CCTV camera. The footage shows-
  - (a) At exactly 3:16am on the morning of 20 September 2020 the defendant assaulted the deceased, causing his fall and injuries.
  - (b) At exactly 3:23am the deceased being carried off by security officers from the club to the exit and down the stairs.
  - (c) At exactly 3:24am the security guards placing the deceased in front of the Drug Store.
9. A medical report prepared by Dr Richard Leona on 24<sup>th</sup> September 2020 show the deceased was brought to the Emergency Unit at around 4:00am on 20<sup>th</sup> September. He was unconscious upon arrival with a Glasgow Coma scale of 7/15 indicating a severe head injury. The condition of the deceased deteriorated by the days and he passed away on 24<sup>th</sup> September 2020 at 12:25am.
10. An autopsy report produced by Dr Crystal on 28<sup>th</sup> October 2020 indicates a post mortem was performed on 25<sup>th</sup> September. The findings show the deceased had a scalp laceration measuring 3 centimetres in length on the right side and back region of the head. Internal examination showed left subdural haemorrhage or bleeding and swelling of the brain and traumatic brain injury being the cause of death. The injury was due to a blunt force applied to the head.
11. In assessing the defendants appropriate punishment I have taken and considered (a) the sentencing submissions of the Prosecution and the Victim Impact statements, (b) the defendant's sentencing submissions and the several character references provided

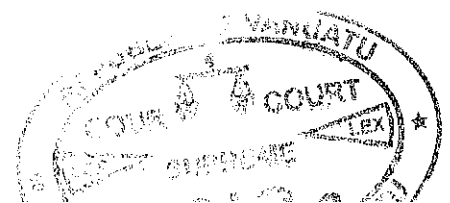


in support for the defendant, and (c) the presentence report filed by the Probation Service.

12. I heard the deceased's mother read her own Victim Impact Statements which should have taken 15-30 minutes but she took almost 1 ½ hours. Losing her only son is obviously stressful and painful for her. She will live with this pain for the rest of her life.
13. This was a case of two young single men exercising their choices of how to live their lives. They both chose to drink alcoholic drinks and to end up in the night club that night. What happened at the beginning may have been enjoyable to them personally but what occurred at the end was a tragedy. One life had been lost and that life cannot be replaced. No amount of monetary compensation or custom reconciliation can ever be adequate substitute for a life. Equally no length of any sentence of imprisonment or any other form of punishment could ever replace the loss of a human life.
14. The assault by the defendant on the deceased was totally unprovoked. From the facts an argument arose but it was between the deceased and another young man, the colleague of the defendant. The argument, had ended and an apology was made.
15. The defendant, a young policeman just beginning his career path as a policeman, as a friend of the public, totally without any word or reason threw a punch to the deceased's head. The impact was a fall, causing the deceased to hit his head against the floor. The defendant had taken the law into his own hands by doing so. He was obviously drunk. There was a breach of trust on his part. There is simply no explanation about why he did what he did. Perhaps it was it was simply a show of machoism. But the defendant forgot he was a law enforcement officer.
16. I consider these to be the aggravating features of the defendant's offending.
17. I consider that this case resembles that of **PP v Warawara** [2012] VUSC 29. The difference is that **Warawara** was not a policeman and he was not drunk.



18. The case of PP v Kanas [2010] VUSC 5 was a traffic case. The defendant whilst drunk caused a traffic accident resulting in death. The defendant' case was not an accident. He intentionally assaulted the deceased, causing him to fall and sustaining injuries that caused his death. Had he not thrown a punch, the deceased would not have fallen and no injuries would have been sustained.
19. The action of the defendant warrants a sentence of imprisonment. This is to serve as deterrence to him and other likeminded people, to mark the seriousness of his offending, to mark public condemnation of his action, to protect the public and to punish him appropriately.
20. Taking the seriousness for the offence committed together with the aggravating features of the offence, I consider that a higher starting sentence of 6 years imprisonment is appropriate.
21. Mr Iata the Court now convicts and sentences you to a starting sentence of 6 years imprisonment for one charge of intentional assault causing death.
22. In mitigating I take into account matters raised in the defence submissions and the pre-sentence report. In particular I take note of the way the deceased was handled by security officers after the assault. I also take note of some delay between the assault and the time he was taken to the hospital. The delay was more than 30 minutes. These contribute to his mitigating factors.
23. I deal first with guilty plea. The Prosecutions submitted the defendant is not entitled to the full 1/3 deduction. I reject that submission. This was a man who realised his wrong immediately and took some steps to assist in the circumstances. I therefore deduct his start sentence of 6 years by 2 years. The balance is 4 years imprisonment.
24. Further, for the substantial reconciliation performed by his relatives, showing remorse, his willingness to pay compensation, his unblemished criminal record, his young age and other personal factors, the mishandling of the deceased and the delay



in bringing him to hospital, I allow a further reduction of his sentence of 4 years imprisonment by 12 months or 1 year.

25. Mr Iata's end sentence is 3 years imprisonment. The sentence will not be suspended as there are no exceptional circumstances to warrant suspension.

26. Finally I taken into account his pre- custodial period since 26<sup>th</sup> September 2020. So the defendant does not lose his entitlement to parole, I order that his end sentence be backdated to 26<sup>th</sup> September 2020.

27. That is the sentence of the Court. The defendant has a right of appeal against this sentence within 14 days if he does not agree with it.

**DATED at Port Vila this 18<sup>th</sup> day of February 2021**

**BY THE COURT**



**OLIVER.A.SAKSAK**

**Judge**

