

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

Criminal
Case No. 20/3042 SC/CRML

BETWEEN: Public Prosecutor

AND: Yaltun Rexley
Defendant

Date: 30 April 2021
By: Justice G.A. Andrée Wiltens
Counsel: Mr K. Massing for Public Prosecutor
Ms L. Bakokoto for the Defendant

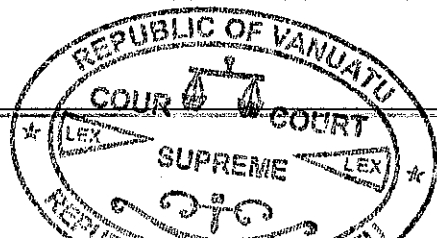
SENTENCE

A. Introduction

1. Mr Rexley pleaded guilty to a charge of intentional assault causing death.

B. Facts

2. At the time of the offending, Mr Rexley was 23 years old and in a relationship with Ms Junita Roger who was then 19 years of age. There was an unspecified argument between them in the early evening of 19 August 2020.
3. In the course of the argument Mr Rexley slapped Ms Roger in the face so hard that she fell off the chair she was sitting on and fell down to the ground. Mr Rexley then stood over her while she lay on the ground and administered a kick to her ribs which caused her severe pain.
4. Ms Roger was unable to sleep and was crying for much of the night. In the morning her mother took Ms Roger to the Nebul Health Centre on Ambrym Island. The nurse examined Ms Roger at 8.45am and found she had abdominal pain, bruising to her abdomen and back, pale lips, feet and palms; and Ms Roger was vomiting blood. She was pronounced dead at 10am. The cause of death was internal bleeding due to trauma inflicted to her internal organs by assault.



5. When interviewed by the police Mr Rexley made a full confession and expressed remorse for what he had done.

C. Sentence Start Point

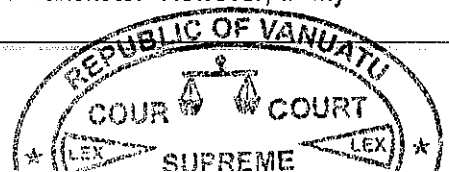
6. The sentence start point is to be assessed by having regard to the maximum sentence available for this offending, and factoring in both the aggravating and mitigating aspects of the offending.
7. The maximum sentence for such offending is a term of 14 years imprisonment
8. It is an aggravating factor that the incident occurred in their home. It is of course a breach of trust for Mr Rexley to behave in this way towards his partner. There were at least two blows administered, possibly more given the medical evidence. There are no mitigating factors to the offending.
9. The start point I adopt, having regard to the authorities of *PP v Ierongen* [2002] VUCA 34, *Lava v PP* [2020] VUCA 26, is 4 years 6 months imprisonment.

D. Mitigation

10. Mr Rexley pleaded guilty at an early stage. I consider he really had no alternative option given the state of the evidence against him. However, his plea indicates that he has accepted his wrong-doing. It has saved Court time and expense. For that reason I reduce the sentence start point by 25%.
11. Mr Rexley is now 24 years of age, single and has some carpentry skills. He hopes to take over his father's boat transportation business.
12. He expressed remorse to the police, and again to the PSR writer. He will have to live with the consequences of his conduct which has caused the pointless loss of a young life.
13. He has no previous criminal convictions.
14. Mr Rexley's family have conducted a custom reconciliation ceremony of his behalf with the family of Ms Roger. Gifts and apologies were offered and accepted. Mr Rexley was unable to take part in that due to being incarcerated.
15. For Mr Rexley's personal circumstances I further reduce the sentence start point by 8 months.

E. End Sentence

16. The end sentence imposed is accordingly a term of 2 years 8 months imprisonment.
17. Mr Rexley has been remanded in custody pending completion of this case. Accordingly, the sentence is back-dated to commence as from 22 August 2020.
18. The Court has a discretion to suspend all or part of the sentence in certain circumstances. That has been done in other cases of this type, as advocated for by Ms Bakokoto. However, in my



analysis, that has occurred due to the existence of battered wives syndrome in those cases. As examples, I refer to *PP v Therese* [2020] VUSC 163, *PP v Lasari Hinge* [2020] VUSC 131 and *PP v Semi Wola* Criminal Case No. 20/1264 30 October 2020.

19. This case does not feature such a significant mitigating factor which warrants the exercise of the Court's discretion. I cannot see any other good reason to suspend the sentence. The primary sentencing consideration must be to make Mr Rexley accountable for his actions and to deter him and others from acting in this way in future. Accordingly, there is no suspension of any of the sentence.

20. Mr Rexley has 14 days to appeal this sentence if he disagrees with it.

Dated at Port Vila this 30th day of April 2020
BY THE COURT


Justice G.A. Andrée Willens

