

PUBLIC PROSECUTOR

v

WALTER MALAU

Date: 4 June 2021
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr P. Sarai
Defendant – Mr L.J. Napuati

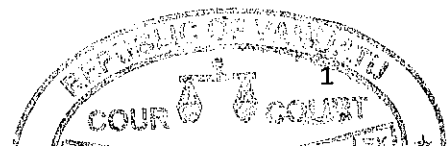
SENTENCE

A. Introduction

1. Mr Malau pleaded guilty to one charge of domestic violence.

B. Facts

2. Mr Malau was in an extra-marital relationship with the complainant Ewa Barron at the time of the offending.
3. On 2 October 2019, Mr Malau and Ms Barron texted each other because:
 - a. Mr Malau was not happy with Ms Barron going out to meet someone else; and
 - b. Mr Malau had borrowed some money from Ms Barron that she wanted refunded.
4. Mr Malau stated in his text messages to Ms Barron that he would punch her and use firearms against her if he found her with another man. She was psychologically abused, harassed and intimidated, and feared for her life.
5. I wholly reject Mr Napuati's submission that all cases must have the salient feature of physical violence. That submission completely overlooks the provisions of the *Family Protection Act*. I also reject the submission that the threats were not actual threats but just texting. That submission has no basis in the facts admitted on Mr Malau's behalf.



C. Sentence Start Point and Personal Factors

6. The sentence start point is assessed having regard to the maximum sentence available, and the mitigating and aggravating factors of the offending.
7. The maximum sentence available is 5 years imprisonment or a fine not exceeding VT100,000, or both.
8. There are no mitigating factors related to the offending. The offending is aggravated by:
 - The breach of trust involved by a Police officer who is sworn to uphold the law;
 - The effect upon Ms Barron including causing her to fear for her life; and
 - The offending was planned.
9. The factors set out above require a sentence start point of 12 months imprisonment.
10. Given the strength of the Prosecution case, Mr Malau had little option but to plead guilty. I deduct 25% from the sentence start point for the early guilty plea.
11. Mr Malau is 47 years old, married and has six children and two grandchildren. He is a currently serving Police Officer, for 29 years now. He has no previous convictions. I reduce the sentence by 2 months for Mr Malau's personal factors.
12. There has not been a custom reconciliation ceremony as this was refused by Ms Barron. She stated to the pre-sentence report writer that the Police took time to progress this case so she wanted it dealt with solely by the court and particularly as Mr Malau had continued calling and stalking her until now.

D. End Sentence

13. Mr Malau is sentenced to 7 months imprisonment. The sentence is imposed to denounce such criminal conduct, to hold Mr Malau accountable for his criminal conduct, to deter him and others from such offending and to protect the community.
14. The end sentence will not be suspended. Given the nature of the offending of violence threatened within a domestic relationship, by a currently serving Police officer who has acted contrary to his sworn oath to uphold the law, the sentence will not be suspended.
15. Mr Malau has 14 days to appeal the sentence.

DATED at Port Vila this 4th day of June 2021
BY THE COURT


Viran Molisa Trief
Judge

