

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

Criminal
Case No. 21/1956 SC/CRML

BETWEEN: Public Prosecutor

AND: Morris Naurita
Defendant

Date: 26 August 2021
By: Justice G.A. Andrée Wiltens
Counsel: Ms M. Tasso for the Public Prosecutor
Ms K. Karu for the Defendant

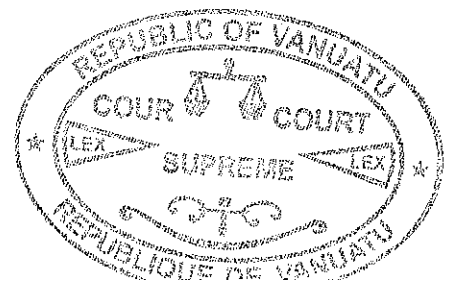
SENTENCE

A. Introduction

1. Mr Naurita pleaded guilty to threat to kill and 2 charges of domestic violence.

B. Facts

2. On 24 February 2021, at around 6.30pm Mr Naurita's wife was cooking manioc for sale the next day at a road market. He did not approve of this and scolded her to cease. She agreed that she would, but Mr Naurita remained angry with her. He approached her and hit her twice to her head with his wrist. She ran off crying.
3. Mr Naurita's wife ran towards their daughter. Mr Naurita followed and wanted to further assault his wife, but the daughter intervened, She pushed Mr Naurita away and told him to stop beating his wife. Mr Naurita's father attempted to reason with him and calm Mr Naurita down. Mr Naurita responded by threatening to kill both his father and his wife.
4. Next, Mr Naurita picked up a stone and threw it in the direction of his father and his wife. It missed them as they were running into the house and closing the door. Mr Naurita threw more stones, but they only hit the door, damaging it.
5. When interviewed, Mr Naurita elected to remain silent.

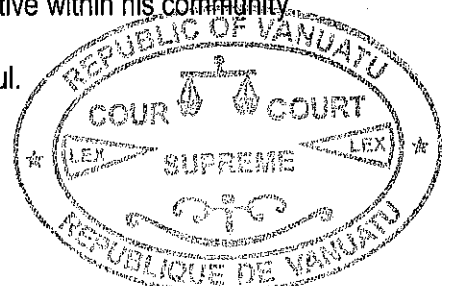


C. Sentence Start Point

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 the offences of domestic violence is 5 years imprisonment for each. The maximum sentence for threat to kill is 15 years imprisonment.
8. The are aggravating factors to the offending:
 - Clearly there is a breach of trust towards his wife and his father;
 - The offending occurred at night in the matrimonial home where both complainants should have been able to feel safe;
 - The offending occurred in the presence of his young daughter;
 - The use of a weapon, namely stones; and
 - The repeat nature of the offending – not only are there 2 separate assaults but also two persons were threatened.
9. I note that the conduct was of short duration and could be said to be part of a continuous event, albeit that differing offences were involved. I note the submission also that Mr Naurita acted in this way to prevent the eroding of the family's food source. He maintained that all the earnings from selling the cooked food would be gambled away. If so, there are other, better ways of getting that point across to his wife. There is no justification for this violence.
10. Ms Karu further submitted that Mr Naurita's threat was empty – that he had no means to achieve what he threatened. I do not accept that. Throwing stones at individuals is clearly an act designed to hurt, and could well end a life if the hurled stones connected with anyone's head.
11. I adopt a sentence start point of 3 years imprisonment for all the charges on a concurrent totality basis.

D. Personal Factors

12. Mr Naurita pleaded guilty to the charges at an early stage. However, the evidence against him was strong, and accordingly guilty pleas were really his only option. Despite that, his pleas indicate that he has accepted his wrong-doing, and it has also saved Court time and expense. For Mr Naurita's prompt pleas, I reduce the sentence start point by 25%.
13. Mr Naurita is now 33 years old. He is in a de facto relationship with 2 children. He is a carpenter and the sole breadwinner of the family. His income is supplemented by their farming efforts. He is also a fisherman. He is considered to be reliable and supportive within his community.
14. He has no previous convictions. He stated he is very remorseful.

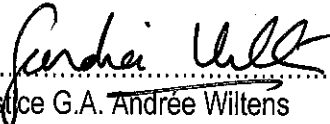


15. Mr Naurita has performed a custom reconciliation ceremony, as he concerned such would be in breach of his bail obligations. There were many gifts offered, as well as an apology to his wife and father. The apologies were accepted by the complainants.
16. For Mr Naurita's personal factors, I reduce the sentence start point by a further 5 months.

E. End Sentence

17. Mr Naurita is sentenced to 1 year 10 months imprisonment for the domestic violence charges, and 12 months for the threat to kill. The sentences are to run concurrently.
 18. This Court has a discretion to suspend all or part of the sentence in certain circumstances. In favour of such is his prompt guilty pleas, his remorse, his participation in a custom reconciliation ceremony, and his previous clear record. Factors militating against suspension are the repeated nature of the offending, the breach of trust and the fact the offending occurred in the family home and in the presence of at least one young child.
 19. I consider there are good rehabilitation prospects, especially with the assistance of Mr Naurita's Chief. The fact that Mr Naurita's apologies have been accepted and the family is re-united further persuades me to be lenient.
 20. Accordingly, I am prepared to suspend Mr Naurita's sentence for a period of 2 years. He must remain offence-free for 2 years to ensure he does not need to serve that term.
 21. In addition, I direct Mr Naurita to complete 120 hours of community work.
1. Mr Naurita has 14 days to appeal the sentence.

Dated at Port Vila, this 26th day of August 2021
BY THE COURT


Justice G.A. Andree Wiltens

