

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

Criminal
Case No. 22/299 SC/CRML

BETWEEN: Public Prosecutor

AND: Richard Harry
Defendant

Court: Justice G.A. Andrée Wiltens
Counsel: Mr D. Boe for the Public Prosecutor
Mr J. Garae for the Defendant
Date for Sentence: 19 May 2022

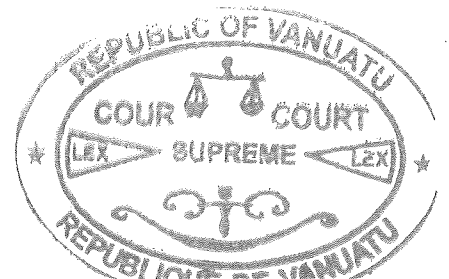
Sentence

A. Introduction

1. Richard Harry is for sentence having pleaded guilty to a charge of intentional homicide.

B. Facts

2. Richard Harry and Ireen William were a couple. On Christmas Day, 2021, they were in the company of friends, consuming alcohol. Richard Harry drank too much and lost control of himself. At one point, he struck Ireen in the face, which caused her to run and hide to avoid further assaults. Richard Harry searched everywhere for Ireen, including into the night with the aid of a torch.
3. He eventually found her under a nabanga tree. He picked up a hard wooden pole, 136cm in length and 2 kgs in weight, ordinarily used to crush kava chips. He caught up with Ireen and struck her a blow to her left eye. She collapsed, unconscious.



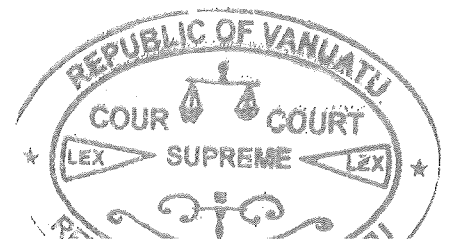
4. Ireen was taken to hospital by some relatives. Richard Harry went with them. The medical report indicates Ireen was admitted smelling of alcohol, largely unconscious, with a haematoma at her left eye and bruises to her right arm and knee.
5. Ireen was unable to be saved, and died of a cerebral haemorrhage the next evening at 9.30pm.
6. When questioned by the police, the defendant admitted his offending.

C. Sentence Start Point

7. The sentence start point is to be arrived at by having regard to the maximum sentences available and then factoring in the aggravating and mitigating aspects of the offending.
8. The maximum sentence for intentional homicide is 20 years imprisonment.
9. There are no mitigating aspects to the offending. However, there are the following aggravating aspects:
 - The unprovoked nature of the assault;
 - The gross breach of trust, due to their being partners;
 - The use of a weapon; and
 - Attacking the head, the most vulnerable part of the human body.
10. The start point that I adopt for the offending is 12 years 6 months imprisonment.

D. Mitigation

11. Richard Harry entered his guilty plea to the charge at the earliest available opportunity, but in the face of strong evidence against him. For the guilty plea, I reduce the sentence start point by 25%. I reject the submission by Mr Garae that a one-third deduction for a prompt guilty is warranted in this case.
12. Richard Harry is 32 years old. He was living with his de facto partner of 8 years, with 2 children aged 7 and 3, who are currently being cared for by their maternal grandmother. He was a cattle farmer, with a sideline of growing kava.
13. He has one previous conviction, but I ignore that for the purpose of this sentence.
14. He claims to be remorseful, and to have never previously assaulted Ireen – but both claims are easy to make and difficult to refute. The fact that she ran and hid, indicates quite the opposite. I place little weight on these claims. It is however, undeniable that he will carry the memory for



the rest of his life of having killed his partner in a drunken rage, as well as having deprived his children the company and loving care of their mother. There is no mitigation in the fact that he was drunk.

15. There has not been a custom reconciliation ceremony. Richard Harry is willing to undertake a ceremony, on his release.
16. In the circumstances, there will be a reduction of 12 months for Richard Harry's personal factors – mainly to take into account the new, unfortunate circumstances his family must now endure.

E. End Sentence

17. The end sentence that I impose is 9 years 6 months imprisonment.
18. Richard Harry has already spent time in custody. Accordingly, in order to preserve his parole rights, the sentence will commence to run from 27 December 2021.
19. This offending is too serious to consider suspension of any part of the sentence. A deterrent sentence is required to be imposed where another's life is gratuitously ended. That militates against any suspension.
20. Richard Harry has 14 days to appeal the sentence.

Dated at Port Vila this 19th day of May 2022
BY THE COURT


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Justice G.A. Andrée Wiltens

