

PUBLIC PROSECUTOR

v

PHILIP KALOMOR

Coram: *Hon. Chief Justice V. Lunabek*

Counsel: *Mr K Massing for the State*
Mrs MB Makward for the Defendant

Date of Pleas: *22 August 2023 and 3rd April 2024*

Date of Sentence: *3 May 2024*

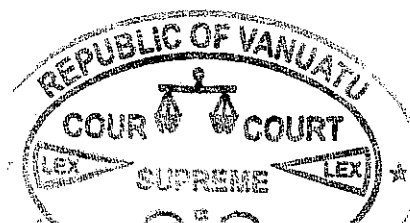
SENTENCE

I. Introduction

1. Mr Philip Kalomor ("*Mr Kalomor*"), you appear today for sentence after you pleaded guilty to three charges of intentional assault causing temporary injuries, contrary to Section 107(b) of the Penal Code Act [CAP. 135] ("*the Act*") (Counts 1, 2 and 4) of the Amended Information filed 3 April 2024.

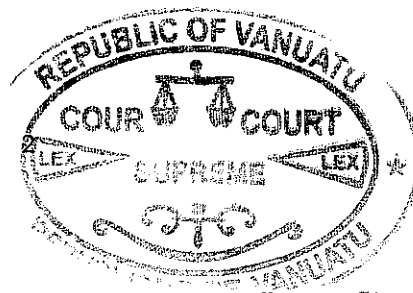
II. Facts

2. The facts are as follows.
3. A formal complaint was made against the defendant for the offences of intentional assault.
4. The defendant and the complainant were husband and wife. They had five children. On or about June 2022, the complainant left the defendant and started her own life with another man. She stated in her police statement that she moved on because she could not bear the



bad treatment she received from the defendant during their marriage. During their marriage they bought a house or property where they live in at Tassiriki area in Port Vila.

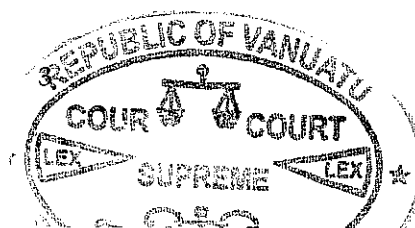
5. However, on the 17th of March 2023, the defendant called the complainant to come and live and look after their house at Tassiriki area in Port Vila, as the defendant was on a business trip to Tanna Island. No one was at the house, as their children went to North Efate to spend their weekend out there.
6. She went there at about 9:45pm. When she arrived at their house at Tassiriki she found out that the defendant was there seating outside at the front of their house. He did not leave for Tanna Island as was mentioned in his call to her.
7. To her mind, she knew that she was wrong and that she made a mistake to come to Tassiriki. She went inside the house and asked him what did he prepare for dinner. He told her that he cooked some rice and then they went to Tagabe area to pay for some soup and they returned home.
8. After dinner, the defendant started to argue with her about the outside affairs she had with another man. During that argument he punched her on the mouth and two of her false teeth were moved and fell down on the floor. In the hit of the argument, he took a hammer and hit her head with the hammer. He went as far as asking her to give her phone password. She refused and he continued to hit her head with the hammer where she blocked her head with her hands from the hammer hitting her head. As a result, her hands got swollen up.
9. He also assaulted her with a wood that was used for cutting meat. That wood was a timber that was used for cutting meat. He assaulted her with that wood on the back and hand. The defendant further kicked her stomach with his leg a number of time where she felt pain on her stomach.
10. In addition, in the hit of the assault, he was very angry with her so he went further to squeeze her neck and held her towards the wall of the house. Because of those actions, she apologized to the defendant and told him she will take her things at Freshwater and then he let her go and he calmed down. They both went to Freshwater and took her clothes and then came back to Tassiriki.
11. At Tassiriki she feel dizzy and pain in her head so they went down to the hospital for a medical check-up. He did not want them to go to the hospital because he knew that if they went there then the police would arrest him. She told him that she would lie to the nurse or doctor at the hospital that something else happened to her and she won't tell the doctors about the incident.



12. At the hospital he left her with the nurse and she told the nurse everything the defendant had done to her. Then the nurse called the police and it was when the police came at the hospital and spoke with the defendant.
13. The medical examination of the complainant are as follows:
 - She sustained head injuries and eyes;
 - The medical report of the complainant is attached, marked and annexed as PI.
14. The defendant was arrested, cautioned and interviewed by the police. Where the defendant elected to remain silent and will speak only in court.

III. Sentence Start Point

15. The maximum sentence that is available for the current offending is 5 years imprisonment.
16. Here, there are no mitigating factors to the offending, but the following aggravating features exist:
 - There was a breach of trust (husband and wife relationship);
 - The offence was planned;
 - There were more than one offence committed that night. There was a repetition of the offending;
 - There must have physical and mental effects on the complainant. The PSR shows that the complainant is still traumatized of the incident. She stated she was bleeding and her wound has healed up but the scar on her skull is still there. She said there were 5 to 6 stitches that was used to seal the wound. She said that often, she had headaches as effects of her injury;
 - Two weapons were used (a hammer and a wood that was used to cut meat), on the body of the complainant.
17. I have perused the prosecution submissions and I have also perused the defence submissions on the appropriate sentence start point.
18. I assess the sentence start point and fix it at 30 months i.e. 2 years and 6 months imprisonment on the circumstances of this case which on the facts should be an offence of



intentional assault causing permanent injury. Here, it is on the higher scale of section 107 (b) offence.

IV. Personal Mitigating Factors for the Defendant

19. Mr. Kalomor, you are 46 years old. You are married to the complainant (your wife Vania Kalomor). You both have five children (4 sons and a daughter). Two of your children have their own partners and they are living their own lives while three are dependents.
20. Your marriage life with your wife is not stable which resulted in the offending that is how you explained your offending to the writer of the pre-sentence report. You claimed that your wife has been lying to you throughout your marriage. You advised that you are currently separated and your dependent children are residing with their mother who is in another relationship with another person.
21. Mrs Vania Kalomor stated during interview that you are a good person but you become violent when you are under the influence of alcohol. She said she was in a violent relationship even before your marriage and she has hoped that you would change after the marriage so she agreed to marry you. However, she said this behavior continued so she made up her decision to leave you and start a new relationship with her other partner.
22. You stated you are an asthmatic person during cold season.
23. You are a class six leaver from Vila East School in 1988. You advised you could not pursue your education as your father passed away and your mother cannot meet your school fees payments. Despite this, you informed that you attended a training on refrigeration and air-conditioning with Australian Pacific Technical College (APTC) in 2013. As a result, you have acquired massive knowledge and skills in that area. Prior to your training, you were involved with previous jobs in refrigeration companies around Port Vila. Your specific area of work was being refrigeration technician.
24. You stated that you bought out Vila Refrigeration Company in 2018. You are the current owner of that business. Since you have issues with your wife, you now work at Iririki Island Resort as refrigeration technician. Your wife is employed by the Statistics Department so you share the living costs.
25. Your ambition in life is to train your children to be well equipped with the necessary skills and knowledge to upgrade and excel with the business you have started.
26. You stated that you realized your mistakes and you deeply regretted your actions towards your wife.



27. You said that you and your wife have said sorry to each other in the presence of your children. This was confirmed by your wife, Mrs Vania Kalomor. You said you planned to perform a custom compensation ceremony if your wife will be willing to accept it. You did perform a custom compensation ceremony on 1 May 2024 at 2.00Pm on Lelepa Island in from of your wife, her chief and family and your family. Your wife Vania Kalomor accepted the custom compensation ceremony and the items you exchanged with them. In a letter written by your wife dated 1 May 2024, she confirmed the Custom compensation ceremony, the fact that she accepted it including the custom items exchanged which are listed in that letter.
28. I give you a credit reduction of 4 months for the fact that you are a first-time offender; you expressed your remorse and contrition towards your wife and your apologized to her and she apologized to you in front of your children; you have performed a custom compensation ceremony which was accepted by your wife, her chief and family.
29. I give you a further credit reduction of 33% reduction of your early guilty pleas which included the charges on the Amended Information filed on 3rd April 2024.

V. End Sentence

30. Your remaining sentence balance is 17 months i.e., 1 year and 5 months imprisonment.
31. In the circumstances of the present case, I decide to suspend this imprisonment sentence for a period of 2 years. In addition, I order you to perform 60 hours of community work.
32. You have 14 days to appeal this sentence if you are unsatisfied with it. The 14 days starts on the date of this sentence.

DATED at Port Vila, this 3rd day of May, 2024.

BY THE COURT



Hon. Chief Justice Vincent LUNABEK

