

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

Criminal
Case No. 23/867 SC/CRML

PUBLIC PROSECUTOR

v

GREGLY SALY ALSO KNOWN AS
GREGLY SALE

Date: 30 May 2024
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Ms M. Tasso
Defendant – Mr B. Livo

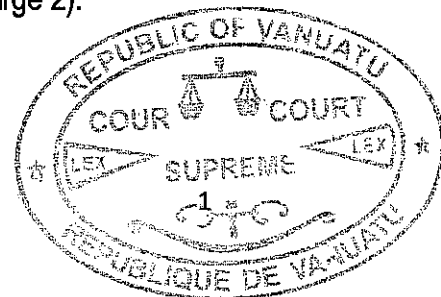
SENTENCE

A. Introduction

1. On 15 September 2023, the Defendant Gregly Saly also known as Gregly Sale pleaded guilty to domestic violence (Charge 2). On 19 April 2024, on the day of trial in respect of the remaining charges, he was re-arraigned and pleaded guilty to two further charges of domestic violence (Charges 1 and 3). Mr Saly is convicted on his own pleas and the admitted facts.

B. Facts

2. The complainant Saliga Tarileo is Mr Saly's *de facto* partner.
3. In 2021, Mr Saly and Ms Tarileo lived on Pentecost. On one occasion, Mr Saly became angry with her during a disagreement, took a sling shot and assaulted her on the backside. Her backside went numb as a result of the assault (Charge 1).
4. In 2022, Mr Saly and Ms Tarileo were living at Ohlen area in Port Vila. Mr Saly assaulted Ms Tarileo to the point that she lost consciousness (Charge 2).



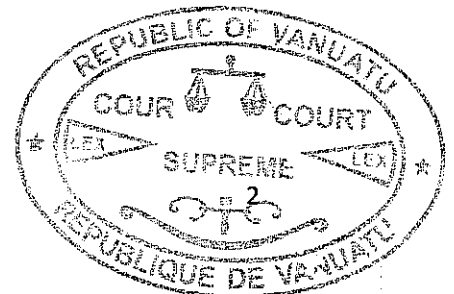
5. On 20 April 2023, Mr Saly returned from seasonal work in Australia. Ms Tarileo was renting a room at Fresh Water area. On arrival, Mr Saly went straight to Ms Tarileo's residence. She asked him to leave and go and live with his uncle. He became angry and threatened to assault her. She left and went to sleep at her aunty's house because she was frightened of Mr Saly. In the early hours of the morning, Mr Saly turned up at Ms Tarileo's aunty's house, pulled her out of the house to the main road and kicked her right rib with his feet (Charge 3).

C. Sentence Start Point

6. The sentence start point is assessed having regard to the offending, its aggravating and mitigating features and the maximum sentence set by Parliament.
7. The maximum sentence provided is 5 years imprisonment or VT100,000 fine or both: para. 4(1)(a) and subs. 10(1) of the *Family Protection Act* No. 28 of 2008.
8. There are no mitigating aspects to the offending however, it is aggravated by the following:
 - a. Serious breach of trust;
 - b. The offending occurred at home where the complainant should have been able to feel and be safe and secure (Charges 1 and 2);
 - c. The use of a sling shot as a weapon (Charge 1);
 - d. The repeated nature of the offending; and
 - e. The physical and mental effects on the complainant, including the injuries suffered.
9. Taking all matters into account, the global sentence start point adopted is 2 years 8 months imprisonment.

D. Mitigation

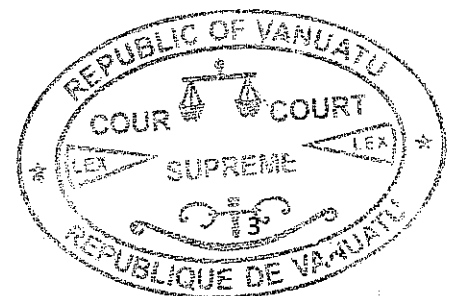
10. Mr Saly pleaded guilty to one of the three charges at the first reasonable opportunity. He pleaded guilty to the remaining charges on the day of trial. This has saved the Court's time and saved the complainant the trauma of giving evidence in Court. It represents an acceptance of responsibility for the offending. Fifteen percent is deducted from the sentence start point for the guilty pleas.
11. Mr Saly is 25 years old. He is employed at a barber shop in Port Vila and owns a shop on Pentecost island from which he helps his parents in terms of finance. He has helped to look after his complainant's son from a previous relationship.
12. He has no previous convictions.



13. On 19 May 2024, Mr Saly performed a custom reconciliation ceremony with the complainant's family involving 3 red mats from Pentecost. The complainant was not present as she had travelled to Santo. Her father and family accepted the red mats. He had also performed a custom reconciliation ceremony with the complainant after the offending in 2021. However, he did not change his behaviour and went on to commit the other offending in 2022 and 2023.
14. Three months is deducted from the sentence start point for Mr Saly's personal factors.
15. Mr Saly has served 13 days in custody (4 May 2023 to 16 May 2023), an effective sentence of imprisonment of nearly 1 month. Accordingly, a further 1 month is deducted from the sentence start point.

E. End Sentence

16. The sentencing principles applicable in this case are holding Mr Saly accountable for his conduct, to denounce the criminal conduct and emphasize public disapproval of such offending, to protect the community, and to deter him and others from acting in this manner in the future.
17. Taking all of those matters into account, the end sentences imposed concurrently are 2 years imprisonment (Charges 1-3).
18. The end sentences will not be suspended as there are no exceptional circumstances warranting suspension. An immediate custodial sentence must be imposed for this serious offending against the defendant's domestic partner.
19. Defendant's counsel had submitted that the sentences should be suspended as there were no serious injuries resulting from Mr Saly's acts, that he is not a habitual offender and his intention is to reunite with his *de facto* partner. There is no information as to whether or not *she* wishes to reunite with him. The nature of domestic violence is that it occurs in the privacy of the home so that a perpetrator may carry out acts of violence for some time before being reported and prosecuted. Mr Saly's offending occurred in 3 consecutive years. I therefore reject the submission that he is entitled to suspension of sentences as he is not a habitual offender. Finally, assaulting the complainant to the point that she became unconscious as a result of being assaulted (Charge 2) is a serious injury resulting from Mr Saly's act. Having her backside go numb as a result of him attacking her with a sling shot (Charge 1) is a serious injury resulting from Mr Saly's acts. She was lying prone on the ground when he kicked her right rib with his feet (Charge 3). There are no exceptional circumstances warranting suspension.



20. The sentences of imprisonment may not be enforced until the time of appeal against sentence has expired or Mr Saly earlier elects to begin serving his sentences: s. 50 of the *Penal Code*. The Manager of the Correctional Centre in Port Vila is to inform the Court if Mr Saly has failed to present himself by 4pm on 13 June 2024 to begin serving his sentences.
21. Mr Saly has 14 days to appeal against the sentence.

**DATED at Port Vila this 30th day of May 2024
BY THE COURT**


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Justice Viran Molisa Trief

