

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

Criminal
Case No. 24/2943 SC/CRML

PUBLIC PROSECUTOR

V

JOHNSON NAMRI

Date of Plea: 20 November 2024
Date of Sentence: 10 March 2025
Before: Justice M A MacKenzie
In Attendance: Public Prosecutor – Mr J Aru
Defendant – Mrs P Malites (holding papers for Ms C Dehivanua)

SENTENCE

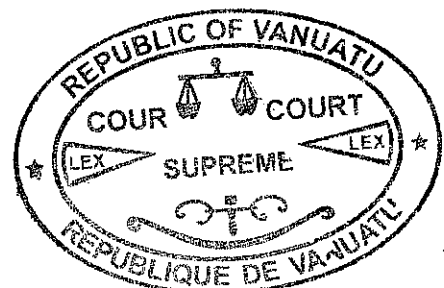
Introduction

1. Mr Namri appears for sentence in relation to a charge of attempted premeditated intentional homicide contrary to ss 28 and 106(1)(b) of the Penal Code [CAP 135]. The maximum penalty for the offence is life imprisonment.¹

The Facts

2. The victim is Mr Namri's partner. At the time of the incident, the two of them had been living together at a village near Meleamat on Efate. At some point in 2024 the victim became aware that Mr Namri was in fact married and had children, so she told him to leave. Mr Namri left their property but continued to contact her by phone. The victim blocked his number, but Mr Namri would then arrive at the home. He was also insistent that the relationship continue.

¹ Mr Namri entered a plea of guilty on 20 November 2024



3. On 5 June 2024, Mr Namri went to the victim's home and demanded that she not leave him. She refused because he was married. Then in the early hours of 7 June 2024, the victim phoned Mr Namri to discuss comments he had made about her. Just after she hung up the phone, Mr Namri arrived at her home. He removed a small knife from his trouser pocket and tried to stab the victim. There was a struggle, but Mr Namri succeeded in stabbing the victim three times to her lower breast area. She ran towards the door. Mr Namri blocked the door, held onto her head and stabbed her again, this time to her left eye area. He tried to stab the right eye but the victim turned her head, so her face was cut instead. The victim managed to escape and called for help. Relatives came to her assistance, and she was taken to hospital for medical treatment.
4. The victim sustained injuries. In a glaring omission, the summary of facts does not detail the victim's injuries but there is a report and photographs on the file which confirm that the victim sustained injuries to the lower breast area, her left eye and her finger.
5. Under caution, Mr Namri admitted the allegations.

Sentencing purposes/principles

6. The sentence I impose must hold Mr Namri accountable and must denounce and deter his conduct. The sentence should ensure he takes responsibility for his actions and assist in his rehabilitation. It must also be generally consistent.

Approach to sentence

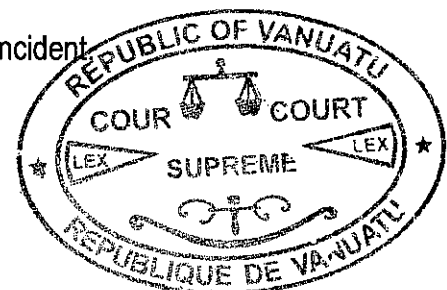
7. Sentencing involves 2 separate steps; *Jimmy Philip v Public Prosecutor* [2020] VUCA 40, which applied *Moses v R* [2020] NZCA 296.

Starting point

8. The first step is to set a starting point to reflect the aggravating and mitigating features of the offending and taking into account the maximum penalty for the offence.

Aggravating factors

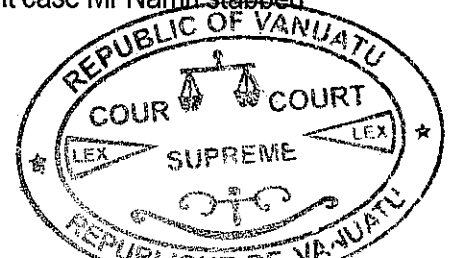
9. The aggravating factors of the offending are:
 - a. There is a serious breach of trust as the victim is Mr Namri's partner.
 - b. The incident took place at home where the victim was entitled to feel safe.
 - c. The repeated use of a lethal weapon, a knife, during the incident.



- d. The incident included an attack to the head. Mr Namri stabbed the victim to the eye area.
- e. The assault was unprovoked and gratuitous, and showed the depths of Mr Namri's controlling behaviour.
- f. The physical and psychological harm suffered by the victim. She was injured, and one of her eyes was seriously although not quite permanently injured. Her chest is affected and she feels sad and worried about her life. It can only have been a very traumatic experience for the victim.

Starting point

- 10. The prosecutor submits that there could be a starting point of 10 -14 years' imprisonment. Defence counsel submits that the starting point should be 8 years imprisonment, although also submits the sentence should be increased by 2 years to 10 years imprisonment to take into account the previous relevant conviction.
- 11. Both counsel have referred to other sentencing cases to assist with setting the appropriate starting point. The two cases which are most useful are *Namri v Public Prosecutor* [2018] VUCA 32 and *Public Prosecutor v Enkey* [2024] VUSC 329.
- 12. *Namri* is a family violence case involving the current defendant, and his former wife. In 2017, Mr Namri and his wife were separated. His wife started living at a church. One day Mr Namri took a hammer from his home, took a bus to the church, said he was going to end his wife's life and struck her on the head 3 times with the hammer. She sustained injuries. On appeal, the Court considered that the appropriate starting point was 8 years imprisonment. The Court said it was appropriate that the sentence reflected the particular seriousness of an assault on a woman arising from a family dispute.
- 13. *Enkey* is helpful for two reasons. First, there is a review of sentencing cases for attempted intentional homicide. Second, it involved a charge of attempted premeditated intentional homicide with the use of a knife. The starting point in *Enkey* was 14 years imprisonment, but the offending was more serious than the present case, as it involved two separate incidents about a month apart. The Court said that on a standalone basis the incident with the knife warranted a starting point of 10 years imprisonment, as it was more serious than *Namri*. Mr Enkey was subject to a bail condition not to contact the victim. In breach of that condition, he travelled to the victim's home and stabbed her in the back as she was fleeing from him. I consider that the second incident involving the knife in *Enkey* is slightly more serious than the present case, because Mr Enkey was subject to a non-association condition and should not have had contact with the victim.
- 14. I assess that the offending here is more serious than the earlier *Namri* sentencing because of the nature of the weapon, the fact that in the present case Mr Namri stabbed

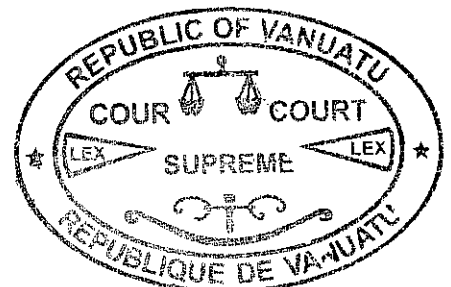


his partner 4 times, including to her eye area, and he tried to prevent her from leaving. Further, the offending took place in the home where the victim was entitled to feel safe.

15. Taking into account the aggravating factors, and the cases I have referred to, I adopt a starting point of 9 ½ years imprisonment.

Guilty plea and personal factors

16. Mr Namri pleaded guilty at an early opportunity. I consider that the sentence should be reduced by 25 percent for this factor. The case against him was overwhelming, so he had little option but to plead guilty. The sentence is reduced by 2 years 5 months.
17. Mr Namri is aged 54 years and is from Tanna. He lived on Efate before being remanded in custody. He is a gardener and is a pastor of the Deep Life Church. He has good support in the community and is well regarded by family members.
18. Mr Namri expressed remorse for the offending to the presentence report writer. Remorse needs to be genuine but need not be exceptional. There should be information that it is actually demonstrated. There is a question mark as to how genuine any remorse is, because he told the report writer that he has an anger management issue when his de facto partner uses abusive language. This indicates minimisation of the offending.
19. There was a modest custom payment made to the victim's brother. The payment was a mat and VT 2000. The victim is adamant that she is not willing to accept custom reconciliation. Custom payment must be taken into account. But here it was not made to the victim who does not wish to accept custom reconciliation.
20. I consider that a modest reduction of 3 months is appropriate for these factors. He is not entitled to a good character discount because he has a relevant previous conviction, there is very limited genuine remorse and the custom payment was not made to the victim.
21. Mr Namri has spent time in custody which must be taken into account. He has been in custody since 20 November 2024, when bail was revoked. I will back date the sentence start date to take that into account. Mr Namri though was earlier remanded in custody for a period of 4 months between 9 July 2024 and 8 November 2024. This is an effective sentence of 8 months imprisonment. The sentence is reduced by 8 months for this factor.
22. With the reductions I have detailed, the sentence is reduced to 6 years 2 months imprisonment. However, the sentence needs to be increased to take account of Mr Namri's relevant previous conviction.



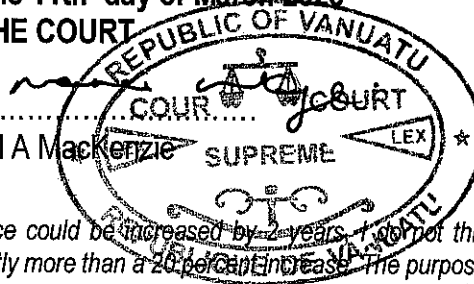
23. The final adjustment is to increase the sentence to reflect that Mr Namri has a previous conviction for attempted premeditated intentional homicide. It was a family harm incident as I have said. Mr Namri has an anger problem and is controlling of intimate partners and resorts to serious violence when there are relationship problems. There is a need for both specific and general deterrence. Family violence is an absolute scourge and Mr Namri is starting to develop an appalling attitude to women as evidenced by both the current and previous offending. Any increase to the sentence needs to be proportionate however. I increase the sentence by 12 months to take into account the previous similar conviction.²

End Sentence

24. The end sentence for the charge of attempted premeditated intentional homicide offending is 7 years 2 months imprisonment.
25. The sentence will not be suspended. Under s 57 of the Penal Code, I must take into account the circumstances, the nature of the offending and Mr Namri's character. Responsibly, counsel for Mr Namri does not suggest that the sentence should be suspended. This was a serious incident of family violence. The victim must have been terrified. It is of significant concern that Mr Namri is before the Court for the second time for attempted intentional homicide. His violence towards intimate partners appears to be escalating given the use of a knife in this case. His violence towards and control of intimate partners needs to be strongly condemned. The previous term of imprisonment had little effect. The offending is too serious for the sentence to be suspended. Accountability, deterrence and denunciation are factors which weigh heavily in the balance. Suspending the sentence would send a very wrong message to both Mr Namri and the community about family violence. A stern response is needed. Intimate partners should be treated with dignity and respect and not controlled and abused physically and emotionally.
26. The sentence is to commence immediately, and the start date is back dated to commence on 20 November 2024, when Mr Namri's bail was revoked.
27. Mr Namri has 14 days to appeal.

DATED at Port Vila this 11th day of March 2025
BY THE COURT

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Justice M A Mackenzie



² While defence counsel submitted that the sentence could be increased by 2 years, I do not think that is a proportionate increase to the sentence, which is slightly more than a 20 percent increase. The purpose of an uplift is for deterrence, not to re-sentence Mr Namri