

PUBLIC PROSECUTOR

V

SAM HALELE

Date of Plea: 14 July 2025
Date of Sentence: 18 July 2025
Before: Justice M A MacKenzie
In Attendance: Public Prosecutor – Ms J Tete
Defendant – Ms B Taleo

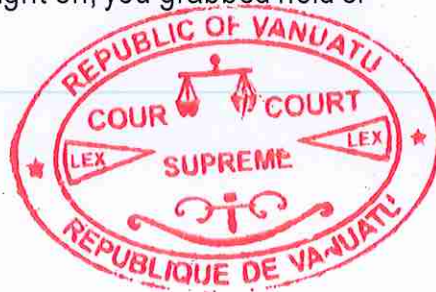
SENTENCE

1. Mr Sam Halele, you appear for sentence in relation to the following charges:
 - a. Attempted intentional assault contrary to sections 28 and 107 (a) of the Penal Code [CAP 135]. The maximum penalty for this offence is 1 year's imprisonment.
 - b. Possession of cannabis contrary to section 2 (62) of the Dangerous Drugs Act [CAP 12]. The maximum penalty for this offence is a fine of VT 100 million or a term of imprisonment not exceeding 20 years, or both.

The Facts

Attempted intentional assault

2. On 5 May 2025, the victim was at her residence in Santo. She went outside because it was hot. She turned on the lights. When she came back inside, the victim noticed that the lights had been turned off. As she tried to switch the light on, you grabbed hold of



her neck and attempted to strike her with a knife. Fortunately, the victim managed to run away.

3. Bystanders chased after you and stopped you. They took you to the police station and you were arrested and kept in custody.

Possession of cannabis

4. While in custody, you were searched. Police found a packet of suspected cannabis in your trouser pocket. Testing was conducted and confirmed the substance to be cannabis, with a net weight of .310 grams.

Principles/purposes of sentencing

5. The sentence I impose must hold you accountable and must denounce and deter your conduct. The sentence should ensure you take responsibility for your actions and help you to rehabilitate. It must also be generally consistent.

Approach to sentence

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

Starting point

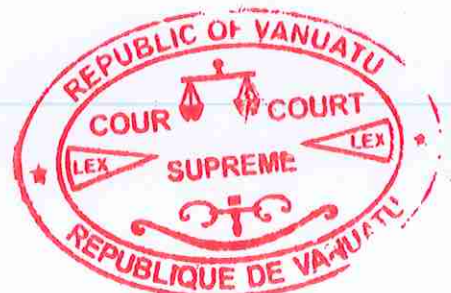
7. The first step is to set a starting point, taking into account the aggravating and mitigating factors of the offending and with reference to the maximum penalty for the offences.
8. The aggravating factors of the attempted intentional assault are:
 - a. The attempted assault was unprovoked.
 - b. The victim was entitled to feel safe at her residence.
 - c. You unlawfully entered into her residence.
 - d. The use of a weapon, a knife, which is capable of inflicting serious harm.
 - e. The victim was vulnerable because she was alone in the dark and you targeted her neck, a vulnerable part of the body.
 - f. Harm to the victim who says she is living in fear.



9. There are no specific aggravating factors in relation to the cannabis offending. It involved a very small quantity of cannabis.
10. There are no mitigating factors of the offending itself.
11. The prosecutor submits that the appropriate starting point is in the range of 6-8 months imprisonment for the attempted intentional assault and that a community-based sentence be imposed for the possession of cannabis. Defence counsel submits that on a global basis the starting point should be 6-10 months imprisonment.
12. Both Counsel have cited cases to assist with selecting an appropriate starting point for the attempted intentional assault. There is no tariff cases for attempted intentional assault. I agree with both counsel that *Public Prosecutor v Natau* [2023] VUSC 246 is of assistance. It involved a charge of attempted intentional assault. Mr Natau threw a digging bar at his brother. A starting point of 6 months imprisonment was set. I consider the circumstances here to be more serious in that a knife is a weapon capable of inflicting serious, if not fatal harm. Further, you targeted the victim's neck when she was vulnerable as she was in the dark in her own residence. On a stand-alone basis, I would adopt a starting point of at least 8 months imprisonment.
13. *Wetul v Public Prosecutor* [2013] VUCA 26 is the guideline case for cultivation of cannabis. It also applies to possession of cannabis. The offending here falls within category one of *Wetul*, as the quantity of cannabis is very small and there is no evidence of commercial use. The usual sentencing outcome would be a community-based sentence or a short term of imprisonment. I have considered the cases cited by counsel and it could warrant a short term of imprisonment as a starting point.
14. On a global basis, I adopt a starting point for both offences of 10 months imprisonment.

Step Two -guilty plea and personal factors

15. You pleaded guilty at an early opportunity. The case against you was overwhelming. The sentence is reduced by 25 % for the guilty plea, which 2 ½ months.
16. You are aged 19 years, and a first offender. You are from Malo Island. You are employed as a casual worker doing construction work. You are remorseful, and there has been a custom reconciliation, which has been accepted by the victim and her family. The custom payment was a mat and VT 2000. You were co-operative with police. For these factors, I reduce the sentence by 1 ½ months. (15 %).
17. You were remanded in custody on 5 May 2025, a period of 2 months and 13 days. That equates to a sentence of approximately 5 months imprisonment. The sentence is reduced by 5 months for this factor.



End sentence

18. The end sentence is 3 months imprisonment for each offence.
19. I am asked to suspend the sentence. Pursuant to s 57 of the Penal Code, I must have regard to the circumstances, the nature of the offending and your character. This was a serious incident of its type, involving an unprovoked attempted assault of a vulnerable victim. You also were in possession of cannabis. Balanced against that, you are a first offender, are relatively young, are remorseful and have good prospects. You have also served the equivalent of a 5 month sentence, which meets the need for deterrence and accountability. Taking all factors into account, the sentence is to be suspended for a period of 3 months. If you offend again in the next 3 months, you will need to serve the sentence of imprisonment in addition to any other penalty that may be imposed for the further offending.
20. You are also sentenced to 60 hours community work and 12 months supervision, as proposed by your counsel. As part of the supervision sentence, you are to attend a rehabilitation programme for drugs and alcohol, as drug use was a feature of the offending.
21. The cannabis material is to be destroyed.
22. You have 14 days to appeal.

**DATED at Luganville this 18th day of July 2025
BY THE COURT**

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Justice M A MacKenzie

