

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

Criminal
Case No. 25/1306 SC/CRML

PUBLIC PROSECUTOR

V

HENRY IALPO also known as ANDRE YARU

Date of Plea: 17 November 2025
Date of Sentence: 21 November 2025
Before: Justice M A MacKenzie
In Attendance: Public Prosecutor – Ms S Langon
Defendant – Mr H Rantes

SENTENCE

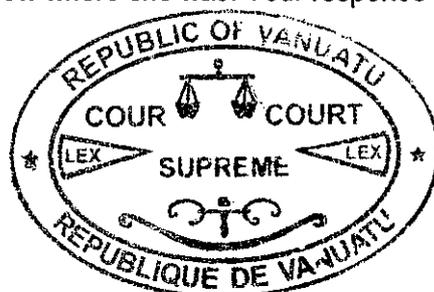
Introduction

1. Mr Henry Ialpo, you appear for sentence in relation to two charges of intentional assault causing temporary injury contrary to section 107 (b) of the Penal Code [CAP 135] and a charge of threats to kill contrary to section 115 of the Penal Code [CAP 135].
2. The maximum penalties for the offences are:
 - a. Intentional assault causing temporary injury - 5 years imprisonment.
 - b. Threats to kill- 15 years imprisonment.

The Facts

Victim One

3. On 11 August 2024, you went to the first victim's house and asked about the whereabouts of your daughter. The victim did not know where she was. Your response



was to punch the victim to his face, jaw and head. You then demanded that the victim follow you to another property. The two of you then went to a Nakamal. You instructed the victim not to leave the Nakamal while holding a knife and threatened that if he did, you would murder him with the knife.

Victim Two

4. Later that same day, you assaulted the second victim. You came across the second victim on the side of the road. You stopped the vehicle you were driving and asked the second victim about your daughter. He told you where she was, and your response was to punch the victim on the face and hit him to the head and shoulder with a piece of wood.
5. You and others then took the second victim to the Nakamal and tied his hands and legs. Then you and others assaulted him again, and eventually took him to a cave and left the victim there. The victim was found by relatives later in the day and taken to hospital.

Injuries to the victims

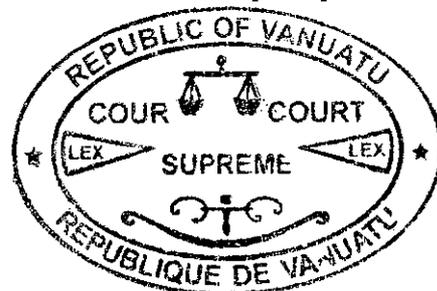
6. Both victims were injured, but the summary of agreed facts does not detail the injuries sustained by each victim. Instead, the medical reports were attached. However, the medical reports are difficult, if not impossible, to decipher. A defendant is to be sentenced on the basis of agreed facts, so all agreed facts should be contained in the summary of facts, including injuries suffered by a victim. Given you were charged with intentional assault causing temporary injury, I infer the injuries were not at the most serious end of the spectrum. But Judges should not have to draw inferences about such matters. The injuries should clearly be detailed in the summary of facts so that there can be a proper assessment of culpability.
7. Under caution, you elected to speak in Court.

Sentencing purposes/principles

8. 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

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

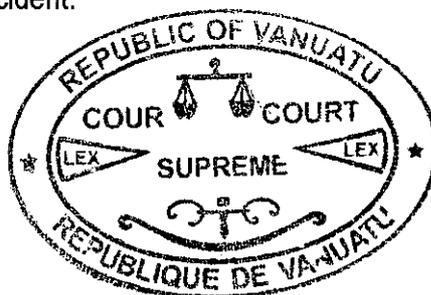


Starting point

10. 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 penalties for the offences.
11. The offending involved two separate victims. The two incidents took place on the same day but some time apart. As was said by the Court of Appeal in *Boesaleana v Public Prosecutor* [2011] VUCA 33, there can be substantial debate as to sentencing approaches. In *Boesaleana*, the Court said:

"[9] When a Court is having to sentence a convicted person who faces many counts and more than one victim, it is often beneficial to decide what is the most serious offending and to impose a lead sentence on that which properly takes account of all aggravating factors and then to impose concurrent sentences in respect of other offending as that is appropriate".

12. In *Kalfau v Public Prosecutor* [1990] VUCA 9, the Court of Appeal said that the general rule in sentencing is that sentences for separate offences should normally be consecutive, although a totality approach may be needed.
13. In this case, I will identify separate starting points for each incident, and then adjust for totality.
14. *Victim One* – the aggravating factors are:
 - a. There was an attack to the head, the most vulnerable part of the human body.
 - b. The use of a weapon, a knife while making a threat to kill. A knife is capable of inflicting lethal harm. It showed the victim that you were capable of carrying out the threat.
 - c. The nature of the threat. You said you would murder the victim if he left the nakamal.
 - d. This was unprovoked, gratuitous violence.
 - e. The offending occurred in the home, so there was an element of home invasion. The victim was entitled to feel safe in his own home.
 - f. The harm caused to the victim. The fact of a temporary injury is part of the charge. However, this must have been a frightening incident.



15. *Victim Two* – the aggravating factors are:

- a. There was an attack to the head, the most vulnerable part of the human body.
- b. The use of a makeshift weapon, a piece of wood.
- c. This was unprovoked, gratuitous violence. It was a prolonged incident.
- d. AT the Nakamal, the victim was very vulnerable given that you tied him up so he could not escape from you and the assault.
- e. The harm caused to the victim. The fact of a temporary injury is part of the charge. However, this must have been a frightening incident.

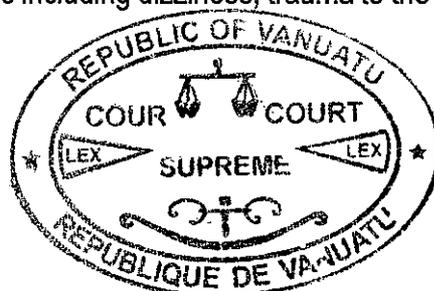
16. There are no mitigating features of the offending itself.

Victim One – starting point

17. Counsel have both referred to a number of cases to assist the court in setting the starting point. The cases which are of most assistance are *Public Prosecutor v Usua* [2025] VUSC 128, *Public Prosecutor v Mul* [2022] VUSC 199, *Public Prosecutor v Buleko* [2021] VUSC 341 and *Public Prosecutor v Kilima* [2022] VUSC 208. That is because these cases involve sentencing for threat to kill and intentional assault. In some cases, the defendant had a weapon when making a threat to kill. In *Usua* and *Buleko*, the threat to kill was made while the defendant was holding a weapon. In *Usua*, the weapon was an axe, and in *Buleko*, it was a knife. In both *Mul* and *Kilima*, there was no weapon when the threat was made. In each of the cases, the starting point adopted for the threat to kill was 4 years imprisonment, with concurrent sentences for the intentional assault.
18. Taking the aggravating factors into account, together with the cases I have just referred to, I adopt a global starting point of 4 years imprisonment for the offending in relation to victim one.

Victim two – starting point

19. Two cases which assist with setting a starting point for this offending are *Public Prosecutor v Toto* [2024] VUSC 9 and *Public Prosecutor v Usua* [2025] VUSC 128.
20. In *Public Prosecutor v Toto*, three police officers were sentenced for intentional assault causing temporary injury. One of the officers, Mr Toto hit one of the victims to the head with a dry coconut leaf branch. She sustained injuries including dizziness, trauma to the

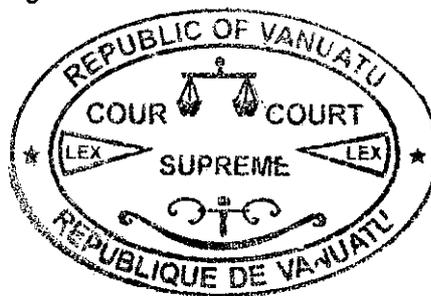


head, and bruising to the face. The starting point adopted was 18 months imprisonment. Another officer, Mr Lele assaulted a different victim with a truncheon. He used it to hit the victim to the chest and head. The victim bled from his head. The assault continued while he was handcuffed. The starting point adopted was 2 years imprisonment. Aggravating factors included the use of a weapon to the head, breach of trust and a group attack. Breach of trust and a group attack are not present here.

21. In *Public Prosecutor v Usua*, the defendant was sentenced for a charge of intentional assault causing temporary injury. The defendant hit the victim on the head with a coffee tree branch. The starting point adopted for that charge was 2 years imprisonment.
22. The offending in relation to victim two is arguably more serious than the assaults in *Toto* and *Usua*. This was an unprovoked, gratuitous and prolonged incident where the victim was punched to the head and then struck with a makeshift weapon, a piece of wood, to the head and shoulders. The victim was then taken to the Nakamal, was tied up and assaulted again at the Nakamal. He was particularly vulnerable at the Nakamal as he was unable to get away, due to being restrained. On a stand-alone basis, the starting point for this offending is at least 2 years imprisonment, arguably a starting point of 2 ½ years imprisonment would be warranted given the aggravating factors and the cases I have referred to.
23. But totality needs to be considered so that the sentence overall properly reflects your culpability and is not out of all proportion with the gravity of the offending. If consecutive sentences were imposed without adjustment, the sentence would be too high.
24. So as to take into account totality, the sentence is increased by 12 months for the assault on victim two.
25. The starting point to reflect both sets of offending is 5 years imprisonment.

Step Two - guilty plea and personal factors.

26. You entered a plea of guilty at the first reasonable opportunity. The sentence is reduced by one third for this factor. The guilty plea shows remorse and acceptance of responsibility and saved the victims from having to give evidence. There was a saving of Court resources. The sentence is reduced by 20 months for this factor.
27. You are aged 41 years and are a first offender. You have a wife and six children. You are well educated, and are employed by the National Bank of Vanuatu, Tanna branch. Your family is financially dependent on you as you are the sole earner in the family. You are well regarded in the community. You have the support of your chief. There has not been a custom reconciliation, but you are willing to do so. You are remorseful. Of



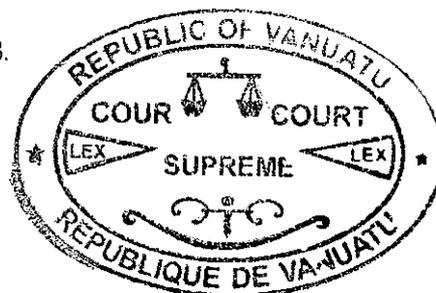
concern is your attempt to minimise or justify this offending which related to your concern that your daughter had gone missing. That is a very difficult situation for any parent, but did not mean that you could lose control and assault the two victims, particularly as the second victim told you that your daughter was at a particular village.

28. Taking into account that you are a first offender, that you are remorseful, and are willing to undertake a custom reconciliation, the sentence is reduced by 6 months, which is 10 percent.

End sentence

29. The end sentence is 2 years 10 months imprisonment for the lead offence of threat to kill. For the two charges of intentional assault causing temporary injury there is a concurrent sentence of 1 year's imprisonment.
30. I am asked to suspend the sentence. The prosecutor seeks a full-time custodial sentence. Under s 57 of the Penal Code, I must have regard to the circumstances, the nature of the offending and your character. When exercising the discretion under s 57, the Court of Appeal in *Public Prosecutor v Garae* [2025] VUCA 37¹ recently affirmed the approach to the exercise of the discretion. A sentencing Judge is to take into account all aggravating and mitigating factors relevant to the discretion. This requires a balancing exercise of the factors against, and the factors, for, suspension.
31. This was serious offending. It was unprovoked and gratuitous. You assaulted two victims, threatened to kill one of them while holding a knife, hit the second victim with a piece of wood and tied him up. The circumstances and nature of the offending point away from suspension.
32. There are factors which point towards suspension. While the assaults were nasty, fortunately neither victim appears to have sustained serious injuries, or the charge would have reflected that factor. You are a first offender, have support from your chief, are remorseful and are willing to perform a custom ceremony, which all favour suspension. Also, your children will suffer if you are imprisoned as you are the sole breadwinner in the family.
33. It is a matter of weighing and balancing the factors both for and against suspension. The need for accountability, deterrence and denunciation are relevant to the balancing exercise, as is the need for consistency in sentencing. This is very finely balanced, given the seriousness of the offending, which could warrant an immediate sentence of imprisonment. However, by a very narrow margin, I will step back from an immediate imprisonment sentence given you are a first offender, have the support of your chief,

¹ At paragraph 28. See also *Malau v Public Prosecutor* [2021] VUCA 48.



are willing to take part in a custom reconciliation and are remorseful. Further, I am concerned that if you are imprisoned immediately your children will pay a heavy price for your violent, vigilante behaviour. While suspension of sentence is discretionary and requires a careful balancing exercise, I note that sentences were suspended for broadly similar offending in the following cases: *Public Prosecutor v Toto*, *Public Prosecutor v Usua*, *Public Prosecutor v Mul*, and *Public Prosecutor v Buleko*.

34. Suspending the sentence for a very lengthy period, in combination with other sentences, being community work, supervision and a compensation payment to each victim, will meet the need for accountability, deterrence and denunciation. It will also assist in your rehabilitation, and is consistent.
35. The sentence is to be suspended for the maximum period allowable of 3 years to reflect the seriousness of the offending and the need to hold you accountable and deter and denounce your conduct. You are warned that if you are convicted of any offence in the next 3 years, that you will be taken into custody and serve your sentence of imprisonment as well as the penalty for the further offending.
36. In addition, you are sentenced to 2 years supervision to assist with your rehabilitation and 150 hours community work.
37. I make an order that you are to pay each victim the sum of VT 50,000 compensation, to be paid within 28 days.
38. I make an order for destruction of the knife.
39. You have 14 days to appeal.

DATED at Port Vila this 21st day of November 2025
BY THE COURT

Justice M A Mackenzie

