

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

Case No. 21/3105 MC/PRIN

PUBLIC PROSECUTOR

V

ANTHONIO BULEBAN

Date of Sentence: 08th November, 2021

Before: Magistrate FSam

*In Attendance: Ms Tasso_M for the Public Prosecution
Defendant in Person and Complainant*

Copy: The Public Prosecutor, Defendant.

SENTENCE

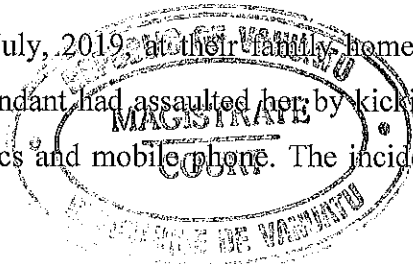
Introduction

1. On the 5th of November, 2021, the defendant Mr Buleban had pled 'hemi tru' to 2 counts of Domestic Violence against him, wherefrom the Court had recorded as his guilty plea.

2. Having considered the defendant admitting the summary of facts presented by the Prosecution, as well as his guilty plea, he is convicted of the two counts of domestic violence accordingly.

Facts

3. Sometime in the morning of the 19th of July, 2019, at their family home at Simbolo area, the complainant reported the defendant had assaulted her by kicking her on her head and feet, and damaging her specs and mobile phone. The incident



happened in front of their children over a course of dispute between the defendant and his complainant partner. It was further stated by the complainant that throughout the course of their relationship, the defendant had occasionally abused her at their home and often used extreme violence when he is angry.

Sentencing Starting Point

4. Because there is no mitigating factors to the offending, consideration is made to the maximum penalty of the offence of domestic violence and aggravating factors to the offending to set an appropriate starting point.

5. The maximum penalty for domestic violence is a maximum prison sentence of 5 years or VT100,000 or both.

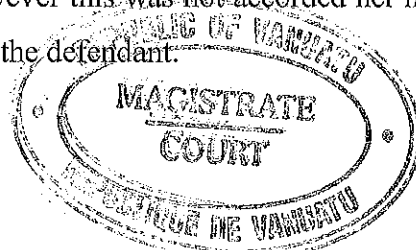
6. The accepted aggravating factors to the offending include:

- There being a serious breach of trust in the relationship;
- The offending taking place within the confines of the family home where everyone should feel safe and protected;
- The offending was repetitive in nature;
- The offending were unprovoked;
- The victim suffered injury in the hand of the defendant;
- The offending occurred in front of their children.

7. I consider the case of *PP v Harry Willie* [2020] VUSC 3367, cited by the Prosecutor, and I quote Justice Saksak's words in Paragraph 8 of the above case:

"8. This complainant and all women generally are entitled to the protection of the law. They stand on equal footing as the men".

8. Likewise, the complainant in this case has similar rights to enjoy as the defendant, and above all, to feel protected, however this was not accorded her in the abusive relationship she had been through with the defendant.



9. I therefore, set a starting point of 18 months imprisonment. This is to deter the defendant and like-minded offenders from committing domestic violence in the future and to punish the defendant, given his history of offending.

Mitigating Factors and Guilty Plea

10. In mitigation, I consider first his guilty plea, and he is awarded a one third deduction for that.

11. I also take note of his cooperation with the police, and his clean history, or no prior conviction, and make 2 months' deductions thereof.

12. I consider also the defendant having reconciled with the complainant, since after the above reported incident, and the complainant testifying in court to confirm this, and they have been together with no further report of violence to date. I also make a month's deduction here.

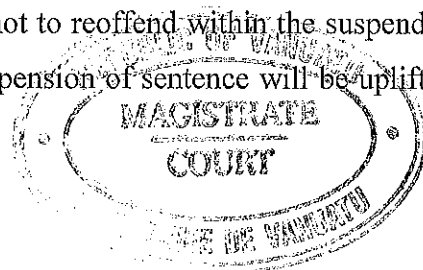
End Sentence

13. The end sentence therefore is 9 months imprisonment.

Suspension

14. In considering suspension of sentence I consider the fact that the defendant is a first time offender and that he has been living with the complainant with no further report of violence, so sending him to an immediate prison term would only disturb the already established peace the couple and their children have had to live through in the process to date.

15. I therefore suspend his sentence for 12 months or 1 year, and he is ordered to be of good behavior as well as he is warned not to reoffend within the suspended period, where in the event he does reoffend, suspension of sentence will be uplifted and he must serve his sentence accordingly.



16. The defendant has 14 days to appeal this sentence if she is not happy with it.

DATED at Port Vila, this 08th day of November, 2021.

BY THE COURT OF VICTORIA
MAGISTRATE
COURT
FSam. DE VICTORIA

Magistrate