

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

Case No. 25/439 CRML

PUBLIC PROSECUTOR

V

DICK SHEM

Date of Plea & Sentence: 24th April, 2025

In Attendance: Mr. Thompson T
Defendant.

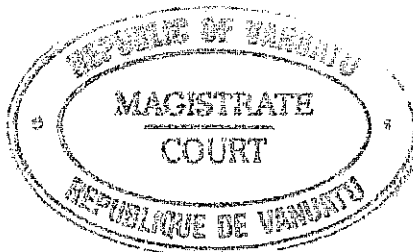
SENTENCE

Background/Introduction

1. The defendant was charged with one count of domestic violence in contrary to section 4(1) (a) & 10 of the Family Protection Act No. 8 of 2008.

Facts

2. The brief facts to the offending are that on the 18th of June, 2023, the complainant reported that the defendant who is her de factor partner had assaulted her following an argument over the defendant smoking marijuana and when told by the complainant to stop the smoking, he send the complainant away to cook with some threatening words, hurting her that she walked away. In the event of following her to bring her back, and she refused, was when the defendant punched her two times, causing her to sustain minor injuries.
3. A medical report was tendered as evidence for the prosecution on the injuries sustained from the assault.



4. The defendant admitted the assault and I convicted him of the count against him.

Sentencing Consideration

5. The maximum penalty for the offence of domestic violence is an imprisonment term of 5 years, or a fine of VT 100,000 or both fine and prison term. Such penalty imposed by the law makers of this country reflect the seriousness of his wrong doing and that is explained to the defendant.

6. The accepted aggravating factors to his offending are that:

- 1) The offending took place within the vicinity of the defendant's home, where the victim should have been protected, however this was not accorded her at the time of offending.
- 2) That victim sustained injuries as confirmed by the medical report.
- 3) The victim was defenseless and vulnerable at the time of the offending.
- 4) The defendant's actions show lack of respect for the victim as his de factor partner and mother of his children.

7. There are no mitigating factors to the offending.

8. I take note of the defendant's guilty plea taken at the earliest available opportunity, and his clean record, as well as the relevant personal mitigating factors, in particular the on-going relationship with the victim today, and the fact that she has remained in the relationship, and the defendant has confirmed no further reoffending, in particular respect to domestic violence upon the victim.

9. I also consider the sentencing submission on part of the state, however given the relevant factors, and circumstances of defendant, I see appropriate not to send the defendant to an immediate prison term, given the current living condition shows he

has already reconciled with the victim, and sending him to prison will only jeopardize the relationship to further tension or disagreement and disturb the peace that has already been rekindled between them following the offending.

End Sentence

10. And given the relevant consideration, I sentence the defendant to a sentence of Community work of 80 hours for the one count of domestic violence against him.

11. That he is also ordered to pay a prosecution cost of VT1000.

12. And that he is further Ordered to remain of good behaviour towards his de factor partner and children and to restrain himself from engaging in the unhealthy habit of smoking marijuana or an activity that would result in his reoffending in the future.

Reason for Sentence

13. His sentence is explained to him as punishment for his wrong actions, as well as to deter him and likeminded offenders from committing similar offences, and especially when it comes to domestic violence, that this court will not condone such violence in family relationship.

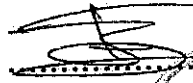
14. His sentence is also necessary allow him a chance to rehabilitate from his unlawful acts.

15. The defendant is informed of his rights to appeal within 14 days from date of this sentence.



DATED at Port Vila, this 24th April, 2025.

BY THE COURT


FSam
Senior Magistrate
COURT
