

PUBLIC PROSECUTOR

v

JEAN PAUL BATICK

Date: 21 July 2021
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Ms B. Ngwele
Defendant – Mrs C.T. Gesa

SENTENCE

A. Introduction

1. Mr Batick pleaded guilty to one charge each of threats to kill and domestic violence (Counts 1 and 2) and two counts of intentional assault causing temporary injuries (Counts 3 and 4). He accepted the summary of facts and was accordingly convicted on his own pleas and the admitted facts.

B. Facts

2. Mr Batick is the *de facto* partner of the complainant.
3. On 5 November 2020, Mr Batick came home at around 8-9pm and behaved in an offensive manner to the complainant by saying to her in front of their children words to the effect, "Tete mi salem sex blo mi" ("Today I will sell myself for sex") and "mummy Taylor, fuck you, tete bae mi start blong salem kok blong mi" (mummy Taylor, fuck you, today I will start to sell my penis") (Count 2).
4. The next afternoon at around 4pm, Mr Batick punched the complainant in the head causing her to sustain blunt force injury on the right side of her face resulting in pain and swelling (Count 4). When she defended herself by striking out with a telephone charger, Mr Batick used a knife to stab the complainant above her right breast and then again above her left breast (Count 3).
5. In the ensuing struggle, Mr Batick placed the knife against the complainant's neck and told her he would cut off her neck. She was so scared she said she wanted to speak with her children first. He responded holding the knife against her neck, "No, bai ol pikinini bai oli no kam insaed, bai mi mas kilim ded yu fastaem. Bae mi kilim ded yu mo bai yu nomo save luk tumoro mo ol taem we bae mi lo lo prison" ("No, the children will not enter the house, I



will have to kill you first. I will kill you dead and you will not see tomorrow nor the time that I will be in prison.”)(Count 1).

6. In fear, the complainant said she wanted to go to the toilet. Mr Batick refused and told her to use the bucket. She refused to and he held the knife against her stomach so she agreed. Then the phone rang. The complainant answered. It was her sister on the phone.
7. At the same time the complainant spoke on the phone, Mr Batick again placed the knife against her neck and whispered that if she reported him, that he would cut her neck. After talking to her sister, the complainant opened the door to get the bucket from outside. The Police were already outside the house and immediately arrested Mr Batick. He chose not to speak with the Police.

C. Sentence Start Point and Personal Factors

8. The sentence start point is assessed having regard to the maximum sentence available, and the mitigating and aggravating factors of the offending.
9. The maximum sentences provided in the *Penal Code* [CAP. 135] are:
 - a. Threats to kill – 15 years imprisonment; and
 - b. Intentional assault causing temporary injuries – 5 years imprisonment.
10. The maximum sentence provided in the *Family Protection Act* No. 28 of 2008 for domestic violence is 5 years imprisonment or VT100,000 fine or both.
11. The offending is aggravated by:
 - Breach of trust;
 - The offending occurred in the home where the complainant was entitled to be safe and protected;
 - The use of a weapon and repeated threats to kill the complainant; and
 - The effect upon the complainant including the injuries inflicted to her head which is the most vulnerable part of the body, the stab wounds to her chest and her intense fear for her life.
12. There are no mitigating aspects of the offending.
13. The factors set out above require a sentence start point of 5 years imprisonment for the threats to kill, 2 years imprisonment for the intentional assault and 2 years imprisonment for the domestic violence charge.
14. Mr Batick pleaded guilty at the first opportunity. Given the strength of the Prosecution case, I deduct 25% (15 months) from the sentence start point.
15. Mr Batick is 43 years old. He is in a *de facto* relationship with the complainant and has 5 children. He was employed as a security guard but his employment was terminated due



to the offending. Mr Batick is stated to have a good relationship with his community. He has no previous convictions. He is stated to be remorseful. The complainant has declined two offers for a custom reconciliation ceremony and stated that she no longer wished to live with him. For Mr Batick's personal factors, I deduct 2 months from the sentence start point.

D. End Sentence

16. Taking all of those matters into account, the end sentences imposed concurrently are:

- a. Threats to kill (Count 1) 3 years 7 months imprisonment;
- b. Intentional assault causing temporary injuries (Counts 3 and 4) 16 months imprisonment; and
- c. Domestic violence (Count 2) 16 months imprisonment.

17. The sentences are back-dated to run from 10 November 2020 when Mr Batick was remanded into custody.

18. The sentence is imposed to deter offending by sending the message to the community that the law prohibits domestic violence in any form. The sentence is also imposed to hold Mr Batick accountable for his criminal conduct and to protect the community.

19. An immediate custodial sentence is imposed. The circumstances, the nature of the crime and the character of the offender do not constitute exceptional circumstances to suspend the sentence.

20. Mr Batick has 14 days to appeal the sentence.

**DATED at Port Vila this 21st day of July 2021
BY THE COURT**


Viran Molisa Trief
Judge

